

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO.10153 OF 2012

Sau. Sangeeta Bipinchandra Tiwari,
age: 37 years, Occ: Agriculture and
Household, Resident of Near Urban
Bank, Dharangaon, Tq. Dharangaon,
District Jalgaon.

Petitioner

Versus

01 The State of Maharashtra,
through the Secretary,
Department of Urban Development
& Public Health, Mantralaya,
Mumbai-32.

02 The Dharangaon Municipal Council,
Dharangaon, Tal. Dharangaon,
District Jalgaon, through its
Chief Officer of the Municipal
Council, Dharangaon,
District Jalgaon.

03 The Director of Town Planning,
Maharashtra State, Pune,
Central Office, Pune 411 001.

Respondents

Mr.S.B.Yawalkar, advocate for the petitioner
Mr.S.G.Karlekar, A.G.P. for Respondents No.1 to 3.
Mr.U.S.Malte, advocate with Mr.R.B.Daware, advocate for
Respondent No.2.

**CORAM : R.M.BORDE &
P.R.BORA, JJ.**

**Reserved on : 19th October, 2015
Pronounced on : 28th October, 2015**

ORAL JUDGMENT (Per R.M.Borde, J.):

1 Heard. Rule. Rule made returnable forthwith and heard finally by consent of learned Counsel for respective parties.

2 The petitioner is praying for issuance of writ or direction to Respondents to correct draftsman's error committed while preparing development plan for Dharangaon (Second Revision) therein indicating S.No.338 and surrounding area, more particularly land belonging to the petitioner out of G.No.577/1B admeasuring 5000 square meters bearing CTS No.5300/A to be the land under reservation.

3 According to the petitioner, during the Second Revision of the development plan, aforesaid property purchased by the petitioner has not been designated for any reservation. Initially site no.8, under the development plan, was indicated for primary school, whereas, site no.9 was proposed for veterinary hospital. While undertaking revision, reservation in respect of site no.8, primary school has been completely deleted and so far as site no.9, reservation proposed in respect of S.No.338 for Indira Gandhi School is deleted and land thereunder is designated as existing Indira Gandhi Junior and Senior College with 9 meters' North-South road to East side as shown in the plan. According to the petitioner, land purchased by her is an open space and is not covered by construction raised by the educational institution. It is, thus, contended that the property purchased by petitioner is not prescribed for any purpose. In the second revision, however, while preparing development map, the area has been shown in pink colour designating same as reserved site. The petitioner

contends that it is a draftsman's error and is liable to be corrected under Regulation No.12. The petitioner contends that Regulation No.12 empowers the Chief Officer to correct draftsman's error with prior approval from the Director of Town Planning. An application tendered by the petitioner for correction of draftsman's error has not been considered and as such, she is compelled to approach this Court.

4 The petitioner further contends that the application has been favourably recommended by the Assistant Director, Town Planning, Jalgaon, however, no decision has been taken by the Director of Town Planning.

5 On perusal of the application as well as recommendation made by the Assistant Director, Town Planning, it does appear that the area purchased by petitioner does not form part of reserved site mentioned in the final development plan which has been operationalised since 03.10.2006.

6 The stand taken by the State Government is that correction in the final development plan or even in the map is required to be made by resorting to provisions of Section 37 of the Maharashtra Regional and Town Planning Act. An affidavit-in-reply has been presented by the Assistant Director, Town Planning, Jalgaon, stating therein that the State Government has taken a decision to initiate proceedings for modification and accordingly notice has been issued on 14.08.2015 by invoking provisions of Section 37 (1AA) of the Act of 1966. It is further stated that pursuant to the notice, the Government has decided to change the

public and semi public zone (Indira Gandhi Junior & Senior College) of the land in question bearing G.No.577/1B, area admeasuring 0.50 hectare into residential zone. It is further stated that on compliance of necessary procedural requirements, the decision of sanctioning the modification under Section 37(2) of the Maharashtra Regional and Town Planning Act would be taken, expeditiously.

7 Since the State Government has accepted request of the petitioner and has initiated proceedings, we deem it appropriate to dispose of this petition with directions to the Respondents to take final decision of sanctioning modification under Section 37(2) of the M.R.T.P. Act, 1966, as expeditiously as possible and preferably by the end of June 2016 after observing necessary procedural formalities; and it is accordingly directed.

8 Rule is accordingly made absolute. There shall be no order as to costs.

P.R.BORA
JUDGE

adb/wp1015312

R.M.BORDE
JUDGE