

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**BENCH AT AURANGABAD**

**WRIT PETITION NO. 3970 OF 2013**

M/s. Jain Roadways, Amalner,  
Through its Proprietor,  
Shri Prakash Laduram Jain

.. **Petitioner**

**Versus**

The State of Maharashtra and others

.. **Respondents**

Shri V. D. Sapkal, Advocate for the Petitioner.  
Shri S. M. Ganachari, A. G. P. for Respondent Nos. 1 to 3.  
Shri Girish Rane, Advocate for the Respondent No. 4.  
Shri A. V. Hon, Advocate for the intervener.

**WITH**  
**CIVIL APPLICATION NO. 9981 OF 2013**

**CORAM : S. V. GANGAPURWALA AND**  
**K. K. SONAWANE, JJ.**

**DATE : 14TH JUNE, 2016.**

**PER COURT :-**

1. Mr. Sapkal, the learned counsel for the petitioner submits that, Site No. 47 is reserved for 'Truck Terminus'. The Municipal Council developed the said site and constructed the shopping complex and godowns. Auction is held on 03.08.2011. Thereafter, again the Municipal Council invited applications for giving the shops and godowns on rent for 3 years. According to the learned counsel, though Site No. 47 and 47/1 is reserved for 'Truck Terminus' applications are invited from all businessmen irrespective of the fact whether they are transporters or not. The transporters raised objection. Thereafter, the Collector passed an

order permitting use of 5 godowns for transporters and remaining 5 godowns for general public. The petitioner filed an appeal before the Divisional Commissioner / Director of Town Planning however the same is also not considered favourably. According to the learned counsel, The Maharashtra Truck Terminal ( Regulation of Location ) Act, 1995 has been promulgated and pursuant thereto amendment has been carried out in the bye laws wherein as per the said bye laws more particularly para No. 22.7 (ii) (n) in a site reserved for truck terminals 60% area has to be kept for parking and the remaining area can be used only for the activity as laid down in the said regulation. Inviting offers from the general public is not permissible.

2. Mr. Rane, the learned advocate for the Municipal Council submits that, the advertisement inviting applications is issued pursuant to the orders of the Collector. More than 80% area is reserved for parking and only 15% is encroached. The Chief Officer, Municipal Council has issued a letter stating that steps would be taken to remove the said encroachment. The learned counsel submits that, even as per the regulation only 60% area is required to be kept for parking. According to the learned counsel that though the applications are invited from all the businessmen the said shops / godowns shall be used only for the purposes as detailed in para No. 22.7 (ii) (n) of the said regulation. The said submission is made on the basis of the letter issued to him by the Chief officer of the Municipal Council, Amalner. The same is taken on record and marked "X" for identification. According to the learned counsel, the persons who have submitted their offers have deposited 50% of the amount also.

3. We have also heard Mr. Hon, the learned counsel for the

intervenor.

4. We have considered the submissions canvassed by the learned counsel for respective parties.

5. Though, the advertisement was issued prior to the enforcement of The Standardised Development Control and Promotion Regulations for Municipal Councils and Nagar Panchayats in Maharashtra, however, no allotment has been made till date nor the offers have been accepted. The said regulations have come into force with effect from 21<sup>st</sup> November, 2013 and Amalner Municipal Council is also covered by the said regulations. The same is not a disputed fact.

6. The Standardised Development Control and Promotion Regulations for Municipal Councils and Nagar Panchayats in Maharashtra in para No. 22.7 (ii) (n) reads as under :

**“22.7 Uses Permissible In Proposed Reservations :**

***i) The uses permissible in a reserved sites shall be conforming to the use for which it is reserved. The required parking, public toilets and separate place for garbage bins shall also be provided in the reserved site itself.***

***ii) n) Truck Terminus – In addition to minimum 60% area for parking of trucks, restaurant, hotel, motel, lodging facility for drivers, auto repair centre, auto service centre, shops for auto spare parts, shops for daily needs, ATM, PCO, primary health centre / first aid centre and provision for loading-unloading may be permitted.”***

7. The Chief Officer, Municipal Council, Amalner has communicated through Mr. Rane, the advocate for the Municipal Council that the Municipal Council would take up steps to remove the encroachment which is on 15% of the open land and open land kept for parking is more than 80%. The said letter also undertakes that the Municipal Council while allotting shops and godowns would follow para No. 22.7 (ii) (n) of the regulation.

8. Considering the above, we pass the following order -

A] The respondent Municipal Council shall endeavour to remove the encroachment as expeditiously as possible and shall take steps in that regard positively and if, there are no prohibitory orders, remove the same within six (6) months.

B] In view of the letter dated 09.06.2016 issued by the Chief Officer, Municipal Council which is taken on record and marked "X" for identification the Municipal Council shall allot the shops and godowns to the successful bidders only for the purpose of the activities as detailed in para No. 22.7 (ii) (n) of the said regulation.

C] The applications which are already received pursuant to the advertisement under challenge may be processed by the Municipal Council in addition the Municipal Council may invite further applications and all these applications shall be considered while allotting the shops / godowns in tune with para No. 22.7 (ii) (n) of the said regulation.

D] After receiving the fresh applications the applications received pursuant to the impugned advertisement and the fresh corrigendum shall be considered for all godowns and shops.

E] For the persons who have filed applications as per the impugned advertisement and are willing to increase their offer opportunity should be given to them to increase their offer.

9. The Writ Petition as well as Civil Application is accordingly disposed of. No costs.

**[ K. K. SONAWANE, J. ]**

**[ S. V. GANGAPURWALA, J. ]**

sam/June.16