

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

WRIT PETITION NO. 6354 OF 2005

M/s Kirti Solvex Ltd.
Through Director
Shri Kirti V. Bhutada,
Age : 42 Years, Occu. : Business,
R/o New Adarsh Colony,
Ausa Road, Latur.

.. Petitioner

Versus

1. The Maharashtra Industrial
Development Corporation,
Through its Managing Director,
M.I.D.C. Mahakali Caves Road,
Andheri (East), Mumbai - 93.
2. The Regional Officer,
Maharashtra Industrial
Development Corporation,
CFC Building, Latur,
Additional Area, Latur.
3. The Executive Engineer,
Maharashtra Industrial
Development Corporation,
Division Latur.
4. The Deputy Engineer,
Maharashtra Industrial
Development Corporation,
Sub Division Latur.

5. The Deputy Chief Executive Officer,
M.I.D.C., Mumbai. .. Respondents

Mrs. Anjali Bajpai (Dube), Advocate for the Petitioner.
Shri S. S. Dande, Advocate for Respondent Nos. 1 to 5.

**CORAM : S. V. GANGAPURWALA AND
K. K. SONAWANE, JJ.
DATE : 06TH JUNE, 2016.**

ORAL JUDGMENT (Per S. V. Gangapurwala, J.) :-

. The learned counsel for the petitioner states that, the petitioner is allottee of plot Nos. G-96, G-100, G-101 and G-102 situated at M. I. D. C. Latur totally admeasuring 30638 square meters. The agreement came to be executed in favour of the petitioner/licensee by the respondent/corporation on 23rd July, 1997. The learned counsel submits that, on or about 8th April, 2003 the petitioner applied to the Regional Officer of the respondent No. 1 to grant permission for conversion of the aforesaid plot from Industrial to Commercial use. On 19.05.2003, Regional Officer, M. I. D. C. agreed to grant permission for conversion of 2848 square meters of land for commercial use subject to the terms and conditions enumerated therein. Vide order dated 21.05.2003, the Regional Manager granted the permission for conversion on payment of Rs. 71,200/- towards the premium of converted portion. The petitioner deposited the said amount, however, on or about 06th April, 2004, the corporation without notice to the petitioner cancelled

the aforesaid conversion. The petitioner assailed the said order before this Court by filing Writ Petition No. 6184 of 2004. This Court set aside the order cancelling the permission granted for commercial use and further directed M.I.D.C. to conduct fresh hearing. Pursuant to the order of this Court and after hearing the petitioner, the respondent/corporation again passed order on 27.05.2005 setting aside permission granted for conversion of 2848 square meters of land for commercial use. The learned counsel for the petitioner further submits that, the said order is passed against the circular dated 01.01.2002, whereby the industrial plot can be converted into commercial one. The said circular lays down two contingencies, wherein the holder of the industrial plot can apply for conversion into commercial use of the plot. The respondent/corporation only on the premise that the said circular is only applicable to sick industries has cancelled the permission already granted to the petitioner for commercial use. The said circular even applies to those industrialists who can use the said plot for commercial purpose. The said aspect has not at all been considered by the respondent/corporation. The same is illegal.

3. Mr. Dande, the learned counsel for the respondent/corporation submits that, the Regional Manager without any authority and without considering import of the circular dated 01.01.2002 had passed an order granting

permission for conversion of the part of the land from Industrial to commercial use. The object of the said circular was to allow conversion of industrial plots to commercial one in respect of those units which are closed down or sick so that the same can be made available for generating employment. The learned counsel further submits that, subsequently vide circular dated 05th September, 2013 and 04th October, 2013 minor modification committee is constituted, which has the power to consider the application for grant of conversion of industrial plot to commercial plot.

4. We have considered the submissions canvassed by the learned counsel for respective parties. When application of the petitioner was decided, the minor modification committee was not in existence. It is submitted that, permission which is granted to the petitioner has been cancelled within 20 days and the petitioner has not put the said part of the plot for commercial use.

5. In view of the fact that, the Committee is already constituted and as per circular dated 05th September, 2013 and 04th October, 2013 the said committee is competent to entertain the applications for conversion of industrial plot into commercial plot, it would be appropriate for the said committee to apply its mind and take decision accordingly. The learned counsel for the

petitioner also agrees that fresh proposal would be submitted.

6. In the result we pass following order.

O R D E R

A. The petitioner may submit fresh proposal to the respondent/corporation with regard to the change of user.

B. The minor modification committee shall decide the said proposal submitted by the petitioner on its own merits in accordance with law expeditiously and preferably within a period of six (06) months from the date of receipt of said proposal.

C. In view of the fact that, fresh proposal is submitted, the earlier proposal shall stand redundant and all orders passed on the earlier proposal shall be of no avail and shall be inoperative.

D. Rule accordingly is disposed of. No costs.

Sd/-

[K. K. SONAWANE, J.]

Sd/-

[S. V. GANGAPURWALA, J.]