IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

PUBLIC INTEREST LITIGATION NO. 27 OF 2016

Manoj J. Kapadia .. Petitioner
V/s.
The Principle Secretary-2
Urban Development Department and ors. .. Respondents.

Mr. Tushar Sonawane for the Petitioner.
Mr. N.R. Bubna for Respondent Nos.2 to 6 and 8.
Mrs M.P. Thakur, AGP for the Respondent- State.

CORAM: DR. MANJULA CHELLUR, C.J.
AND M.S.SONAK, J.

DATE : 07 OCTOBER 2016.

P.C.

1] Affidavit-in-reply filed by respondent No.3 is placed on record.

2] The present petitioner herein is also a developer within the Corporation of Mira-Bhayandar Municipal Corporation. According to him, the open land tax payable by many of the developers/owners is not at all collected by the respondent Corporation inspite of Circular issued by the Commissioner of said Corporation wayback on 22 December 2008. As per the affidavit-in-reply of respondent No.3, paragraph 4 at page 901, the figures shown in the table indicating the amount due on account of tax on open land recovered which includes penalty and amount taken by way of deposit. From the year 2008-2009 onwards, if we look at the figures upto 2015-16, there is definitely increase in the collection of the open land tax, but we do not have any further material to show that any special favoritism or benefit was extended by the respondent Corporation to any of the developers in particular, by not even demanding open land tax or if demanded, not taking any coercive steps in collecting the said tax.

3] On the other hand, the writ petitioner says that as per the orders of the Commissioner about Rs.51 Cores was due for the year 2008-2009. It is also indicated in the affidavit-in-reply, the open land tax assessed between 2015-2016 and 2016-2017 was against 235 builders and the amount was Rs.32,92,75,588/-.

4] In the light of above facts and figures given in the affidavit-in-reply and in absence of impleading or pointing out any particular developer or owner who is shown favoritism by the respondent Corporation, we are of the opinion that the entire grievance will be a general grievance based on personal information without any substantial material available to the petitioner. Therefore, giving general directions to the respondent Corporation to collect the open land tax adhering to the procedure would become academic since they are duty bound to do so. If only specific allegation is brought to our notice with reference to a particular developer or owner, then we can ask the Corporation to address the said grievance why so and so was not brought within the liability.

5] Under these circumstances, we decline to pass any specific orders with any specific directions to the the respondent Corporation. However, liberty is reserved to the writ petitioner to make a representation to the Commissioner of 3rd respondent Corporation indicating specific instances of non-collection of open land tax from either developer or owner either by representation or under Right to Information Act, as he thinks it fit. With these observations, we dispose of the public interest litigation.

6] However, we make it clear that none of the observations or directions to the writ petitioner should desist the 3rd respondent Corporation in making efforts to collect the open land tax from developer and/or land owner including the writ petitioner, if he is due any such amount.

(**CHIEF JUSTICE)**

(M.S.SONAK, J.)