

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

Public Interest Litigation No.79 of 2014

(The Court on its own motion

vs.

The State of Maharashtra, through the Collector, Amravati and others)

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*Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.*

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Court's or Judge's Orders

*Shri A.A. Naik, Amicus Curiae.
Shri M.J. Khan, A.G.P. for Respondent Nos.1,3,5,7,10,11,12,14 & 15.
Shri J.B. Kasat, Advocate for Respondent No.2.
Shri S.C. Mehadia, Advocate for Respondent No.4.
Shri F.T. Mirza, Advocate for Respondent No.8.
Shri D.M. Kale, Advocate for Respondent No.9.*

CORAM : B.R. GAVAI & P.N. DESHMUKH, JJ.

DATE : 3rd MARCH, 2016.

The present public interest litigation was directed by this Court to be registered in pursuant to certain directives issued in Writ Petition No.6395/2012 along with other connected matters, wherein this Court was of the view that the reservation of the lands reserved for public purposes was permitted to be lapsed on account of inaction by the Local Authorities.

The Division Bench of this Court, therefore, had issued notice on 10th December, 2014 on the following two limited issues :

- 1) The action to be taken or proposed to be taken by the State Government so as to ensure that reservation of the lands reserved for public purposes does not lapse.*

2) Though a substantial amount is received by the Local Authorities for the purposes of paying compensation for the lands reserved for the public purposes, the said funds are not utilised for the said purposes and they are utilised for other purposes.

In response to the notice issued by this Court, an affidavit has been filed by Shri Avinash Bhalchandra Patil, presently posted as Joint Secretary (UD-1), Urban Development Department, Mantralaya, Mumbai on 17th December, 2015. Perusal of the affidavit would reveal that the State has taken various measures so as to ensure that the reservation of the lands to the public purposes does not permit to be lapsed. Some of the steps taken are as under :

1. Amendment to Section 127 of the Maharashtra Regional and Town Planning Act, 1966, whereby a period of 12 months has been increased to 24 months for taking necessary steps to acquire the land.
2. Amendment to the provisions related to Town Planning Scheme so as to enhance implementability of the scheme.
3. Amending to provisions regarding Transferable Development Rights (TDR) and Accommodation Reservation (AR) in the Development Control

Regulations of Municipal Corporations and Municipal Councils and Nagar Panchayats in the State.

4. Various directives have been issued by the State Government to the Planning Authorities on 04/05/2006, 21/09/2013, 12/02/2014, 13/02/2014 and 11/12/2014, wherein each Planning Authority should require to make provision of at least 20% budgeted amount for implementation programme for the acquisition of land under reservation. The directives also direct the Planning Authority to give priority to the acquisition of the land for which notice under Section 127/49 is served. The directives also direct the Planning Authority to prioritise to acquisition of land as per the phased programme of Development Plan without waiting for the time limit of 10 years. The directives provide for recovery of the Development Charges and utilisation of the same for the development/ acquisition of the land under reservation. The directives make it binding on the Planning Authority to approve the proposal of acquisition of land for which notice under Section 127 is served. They provide for stringent action to be taken in case the

directives are not complied with. The directives also provide that if there is insufficiency of funds, the Planning Authority should apply to the Collector for seeking financial aid under 13th Finance Commission/Maharashtra Swarna Jayanti Nagarotthan Mahaabhiyan Scheme. The other relief as sought in issue would take care of the concern expressed by the Court.

In that view of the matter, we find that the petition has served its purpose. The petition, therefore, is disposed of approving the steps taken by the State Government for ensuring that the reservation of the land for the public purposes does not lapse.

The Court expresses its gratitude to the learned Amicus Curiae for assisting the Court effectively.

JUDGE

JUDGE

**sdw*