

**FARAD CONTINUATION SHEET
IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH : NAGPUR.**

Writ Petition No. 1285 of 2016

M/s Novel Residential Infrastructures, Ngp.

v.

Nagpur Improvement Trust & ors.

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

Court's or Judge's orders

None for the Petitioner.
Mrs. Rashi Deshpande, AGP, for Res. No. 3.
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Coram : Smt. Vasanti A. Naik &
V.M. Deshpande, JJ.

Date : 18th March, 2016.

None appeared for the petitioner in the morning session. None appears for the petitioner in the afternoon session also.

By this writ petition, the petitioner seeks a direction to the respondent nos. 1 and 2 to consider and sanction the building plan of the petitioner as per the provisions of the Regional Plan Development Control Regulations that were applicable on the date of submission of the building plan, i.e. 17.11.2014.

It appears on a reading of the writ petition that the petitioner had submitted the building plan to the Nagpur

Improvement Trust on 17.11.2014 for sanctioning the same after paying the scrutiny charges of the building map. The Draft Development Plan and Development Control Regulations were published on 26.2.2015. The Nagpur Improvement Trust directed the petitioner to submit a fresh Building Plan as per the Draft Development Plan and Development Control Regulations published on 26.2.2015 by the communication dated 25.3.2015.

It is the case of the petitioner that in view of the provisions of the proviso to Section 46 of the Maharashtra Regional and Town Planning Act, the Plan ought to have been sanctioned by the Nagpur Improvement Trust by giving due regard to the Draft Development plan and Development Control Regulations, that were in existence on the date of submission of the Building Plan, i.e. 17.11.2014. According to the petitioner, the petitioner cannot be directed by the Nagpur Improvement Trust to submit a Building Plan as per the provisions of the Sanctioned Standardized Development Control and the Promotion Regulations for Regional Plan. It is the case of the petitioner that the plan of the petitioner, as submitted, should have been considered by the respondent- Nagpur Improvement Trust by giving due regard to the draft of the Sanctioned Regional Plan, existing on 17.11.2014.

On hearing the learned Asstt. Govt. Pleader, and on a perusal of the writ petition and the provisions of Section 46 of the

Act, we do not find that the petitioner is entitled to the relief claimed. As per the proviso to Section 46 of the Act, if the Development Control Regulations are not sanctioned, then while considering the application for permission to make construction, the Planning Authority should have due regard to the provisions of the draft or sanctioned Regional Plan. There is nothing in the provisions of Section 46 of the Act that enjoins a duty on the Planning Authority to sanction the map only as per the draft of sanctioned regional development plan, that was in existence on the date of making of the application for permission.

Since we do not find any illegality in the action of the respondent-Nagpur Improvement Trust in asking the petitioner to submit an application for sanction of the plan as per Regulation dated 26.2.2015, as its plan was not sanctioned till then, the writ petition is dismissed with no order as to costs.

Judge

Judge

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