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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**WRIT PETITION NO. 807 OF 1991
WITH
WRIT PETITION NO. 1265 OF 1993**

Balkrishna Pandurang Jadhav

...Petitioners in
both the
Petitions

Versus

State of Maharashtra & Ors.

...Respondents
in both the
Petitions.

Mr. Vijay Patil, for the Petitioners in both Writ Petitions.
Mr. Manish M. Pabale, AGP for the Respondents Nos. 1 & 3 /
State in both Writ Petitions.
Mr. S.S. Patwardhan, for the Respondent No.2 in both Writ
Petitions.

**CORAM: A.S. OKA AND
RIYAZ I. CHAGLA, JJ.
DATED: 8th September 2017**

ORAL JUDGMENT (Per A.S. Oka, J.)

1. We have heard the learned counsel appearing for the
Petitioners in Writ Petition No. 807 of 1991. The Petitioners in
both the Petitions are the same. However, none appears for

them in Writ Petition No. 1265 of 1993. We have heard learned AGP for the State and the learned counsel representing the second Respondent.

2. Both Petitions concern the property bearing Survey No. 265/ 3 / 1 admeasuring 1 Acre 20 Gunthas (for short “**the said land**”) situate at Karveer within the limits of the second Respondent – the Kolhapur Municipal Corporation. The second Respondent Municipal Corporation has been established under the Maharashtra Municipal Corporations Act, 1949, which is also a Planning Authority within the meaning of Sub-Section (19) of the Maharashtra Regional and Town Planing Act, 1966 (for short “**the MRTP Act**”).

3. On 8th September 1977, first revised development plan for the City of Kolhapur was sanctioned by the State Government under Section 31 of the MRTP Act. The land subject matter of these Petitions (“**said land**”) was reserved in the said plan covered by Site No. 87 for housing of dis-housed persons. The second Respondent applied for initiating acquisition proceedings in respect of the said land

based on the reservation. A notification was published in the government gazette on 12th November 1981 in exercise of the powers under Sub-Section (4) of Section 126 of the MRTP Act read with Section 6 of the Land Acquisition Act, 1984 (for short "**said Act of 1994**"). The date of the notification is 19th September 1981. The said land was included in the said notification.

4. It appears that the said land was subjected to the proceedings under the Urban Land (Ceiling and Regulation) Act 1976 (for short "**ULC Act**"). The said land was declared under the ULC Act as a vacant land held by the Petitioners in excess of ceiling limit. It appears that the said excess land was placed in possession of the second Respondent Municipal Corporation on 29th October 1985 by the State Government. A notice dated 31st May 1989 under Section 127 of the MRTP Act was served by the Petitioners to the second Respondent. Writ Petition No. 807 of 1991 is based on the said notice under Section 127 of the MRTP Act. It is contended that as steps for acquiring the said land were not taken within the time provided under Section 127 of the

MRTTP Act, the reservation on the said land for housing of dis-housed persons shall deemed to have been lapsed.

5. In the year 1989, the work of preparing the second revised development plan was undertaken by the second Respondent. By a notification dated 23rd September 1992, objections and suggestions to the second revised draft development plan were invited by the second Respondent by taking recourse to Sub-Section (2) of Section 26 of the MRTTP Act. This notification led to filing of Writ Petition No.1265 of 1993, as in the second revised draft development plan, the same reservation was continued on the said land. The contention raised in the said Writ Petition is that as the reservation lapsed on the basis of the notice dated 31st May 1989, the same reservation could not have been provided in the second revised draft development plan.

6. There are certain subsequent events which have been placed on record by the second Respondent by filing an additional Affidavit of Mr. Suresh Pandurang Patil, a Junior Engineer which is dated 19th August 2017. A copy of the order dated 23rd October 2001 passed by the State

Government in exercise of revisional jurisdiction under section 34 of the ULC Act is placed on record by which the State Government proceeded to set aside the order made under Sub-Section (4) of Section 8 of the ULC Act declaring the said land as excess vacant land. The State Government also proceeded to set aside the action taken under Sub-Sections (3) and (5) of the Section 10 of the ULC Act. The State Government cancelled the allotment of the said land made to the second Respondent and directed restoration of the said land to the Petitioners. On the basis of the said order, a fresh order under Sub-Section (4) of Section 8 was made by the Competent Authority of the Kolhapur Urban Agglomeration on 21st May 2003. By the said order, it was held that the Petitioners were holding no vacant land in excess of prescribed ceiling limit. It is in the light of the order dated 23rd October 2001 that the said land which was placed in possession of the second Respondent was required to be restored to the Petitioners.

7. The learned counsel appearing for the Petitioners in Writ Petition No. 807 of 1991 submitted that the acquisition

proceedings initiated on the basis of the gazette notification dated 12th November 1981 were already abandoned in view of the fact that the second Respondent was placed in possession of the said land on 29th October 1985 under the ULC Act. He submitted that within the period stipulated in Section 127 of the MRTP Act, after service of the notice dated 31st May 1989, no steps for acquisition of said land were admittedly taken and, therefore, the reservation on the said land shall be deemed to have lapsed. He urged that the second Respondent cannot rely upon the acquisition proceedings initiated on the basis of the notification dated 19th September 1981 published in the government gazette in 12th November 1981 as the acquisition proceedings were abandoned. He, would, therefore, submit that the reservation on the said land lapsed on the expiry of period of six months from 31st May 1989. He would further submit that in the second revised draft development plan, the same reservation cannot be continued.

8. The learned counsel appearing for the second Respondent Corporation pointed out that the second revised

development plan was sanctioned by the State Government on 18th December 1999 which has been brought into force with effect from 1st January 2000. He pointed out that the said land continues to be reserved for housing of dis-housed persons in the said second revised sanctioned plan. He submitted that the acquisition proceedings initiated in the year 1981 based on declaration under Sub-Section (4) of the Section 126 of the MRTP Act read with Section 6 of the said Act, 1984 have not lapsed and therefore, the notice under Section 127 issued by the Petitioners on 31st May 1989 was not competent. He would urge that the notice itself was not competent, as the acquisition proceedings were already initiated on the date of notice and, therefore, the consequences provided under Section 127 of the MRTP Act would not follow in the facts of the case. The learned AGP stated that he has no instructions apart from the factual aspect set out in the affidavits filed on record.

9. We have given careful consideration to the submissions. Before we deal with the issue of the legality and validity of the notice dated 31st May 1989 issued by the

Petitioners, it will be necessary to note the factual aspects which are very material for deciding the controversy. There is an Affidavit filed by Mr. Vijay Shinde, Town Planner of the second Respondent. In the said Affidavit, he has disclosed that when the said notice was served, the second Respondent had already initiated the proceedings. It is further stated that on 20th March 1991, the general body of the second Respondent resolved that the land in question be de-reserved. It is further stated that the Municipal Commissioner on 4th April 1991 had requested the State Government to rescind the said resolution by exercising the powers under Section 451 of the Maharashtra Municipal Corporations Act, 1949. There is an Affidavit filed by Mr. Kunal Kumar, the then Commissioner of the second Respondent in which he relied upon the Notification dated 31st May 2001 issued by the Government of Maharashtra and submitted that, the Petitioners are entitled to develop the said land subject to complying with terms and conditions incorporated in the said Notification.

10. There is an Affidavit filed by Mr. S.M. Deshmukh, Town

Planner, in the office of the Assistant Director Town Planning, Kolhapur. There is also an Affidavit filed by Mr. Shekhar Chavan, Special Land Acquisition Officer No.11, Kolhapur, in which reliance is placed on the Notification dated 19th September 1981 under Sub-Section (4) of Section 126 of the MRTP Act read with 6 of the said Act of 1894 by which the acquisition proceedings were already initiated in respect of the said land on the basis of the reservation imposed by the revised development plan sanctioned on 8th September 1977. In the said Affidavit, which is filed on 18th April 2006, it is contended that since the said land was proposed to be allotted to the second Respondent, no further steps were taken in the acquisition proceedings.

11. The said Affidavit of Mr. Chavan does not refer to the subsequent development which took place in the form of order dated 23rd October 2001. At this stage, we may note that the entire area of the said land was covered under Site No. 87 (Site No. 406 in the second revised sanctioned development plan). As stated in paragraph 1 of the Petition, the said land bears survey No. 265/ 3 /1. The said land was

declared as a surplus vacant land held in excess of ceiling limits under the ULC Act, which was allotted and placed in possession of the second Respondent. However, the said order declaring the said land as a vacant land held in excess of ceiling limit was set aside by the order dated 23rd October 2001 passed by the State Government. We may note here that the area of 5715 square meters out of land bearing No. 265 / 3 / 1 was declared as an excess vacant land. All consequential actions were set aside under the order dated 23rd October 2001 including the action of allotment of the excess land to second Respondent. Later on, by an order dated 21st May 2003, the Competent Authority under the ULC Act held that the Petitioners were not holding any vacant land in excess of ceiling limit.

12. The main question which arises for consideration in Writ Petition No. 807 of 1991 is as regards the effect of the declaration made under Sub-Section (4) of Section 126 of the MRTP Act read with Section 6 of the said Act, 1894 on 19th September 1981 which was published in the Government gazette dated 12th November 1981 (for short “**the said**

declaration”). The other question is whether the acquisition proceedings on the basis of the said Notification can be said to have been abandoned or lapsed. It is true that after the said declaration was issued, the said land was placed in possession of the second Respondent under the provision of ULC Act. As stated earlier, the allotment of the said land was cancelled by the State Government under the order dated 23rd October 2001. The acquisition proceedings could have lapsed provided Section 11A of the said Act of 1894 was applicable to the acquisition proceedings initiated on the basis of the said declaration. As far as this aspect is concerned, the issue is settled by a decision of the Apex Court in the case of ***Girnar Traders (3) vs. State of Maharashtra & Others.***¹, paragraph 191 of the said decision read thus:-

“191. Having said so, now we proceed to record our answer to the proposition referred to the larger Bench as follows:

For the reasons stated in this judgment, we hold that the MRTP Act is a self-contained code. Further, we hold that provisions introduced in the Land Acquisition Act, 1894 by Central Act 68 of 1984, limited to the extent of acquisition of land, payment of compensation and recourse to legal

1 (2011) 3 Supreme Court Cases 1

*remedies provided under the said Act, can be read into an acquisition controlled by the provisions of Chapter VII of the MRTP Act but with a specific exception that the provisions of the Land Acquisition Act insofar as they provide different time-frames and consequences of default thereof including lapsing of acquisition proceedings cannot be read into the MRTP Act. **Section 11-A of the Land Acquisition Act being one of such provisions cannot be applied to the acquisitions under Chapter VII of the MRTP Act**".*

(emphasis added)

13. Hence, the acquisition proceeding initiated on the basis of said declaration has not lapsed as Section 11A of the said Act of 1894 is not applicable to the acquisition initiated on the basis of the said declaration. Moreover, admittedly there is no order made under Section 48 of the said Act of 1894 of withdrawal / cancellation of the acquisition. There is no material placed on record to show that the State Government took a conscious decision of abandoning the acquisition proceedings initiated on the basis of the said declaration.

14. In the light of this position, it will be necessary now to consider whether the notice dated 31st May 1989 purportedly issued under Section 127 of the MRTP Act was valid. As far as the interpretation of Section 127 of the MRTP Act is

concerned, the law has been laid down by the Apex Court in the case of ***Girnar Traders (II) Vs. State of Maharashtra and others***², which has been consistently followed by the Apex Court in subsequent decisions. One such decision is in the case of ***Shrirampur Municipal Council, Shrirampur Vs. Satyabhamabai Bhimji Dawkher and others***.³

15. Therefore, it will be necessary, to know Section 127 as it existed on the date of which the said notice was served.

Section 127 reads thus:-

“127. Lapsing of reservations. – If any land reserved, allotted or designated for any purpose specified in any plan under this Act is not acquired by agreement within ten years from the date on which a final regional plan, or final development plan comes into force or if proceedings for the acquisition of such land under this Act or under the Land Acquisition Act, 1894, are not commenced within such period, the owner or any person interested in the land may serve notice on the planning authority, development authority or as the case may be, appropriate authority to that effect; and if within six months from the date of the service of such notice, the land is not acquired or no steps as aforesaid are commenced for its acquisition, the reservation, allotment or designation shall be deemed to have lapsed, and thereupon the land shall be deemed to be

2 (2007) 7 Supreme Court Cases 555.

3 (2013) 5 Supreme Court Cases 627.

released from such reservation, allotment or designation and shall become available to the owner for the purpose of development as otherwise, permissible in the case of adjacent land under the relevant plan.”

16. The issue before the Apex Court was what is the meaning of the commencement of the acquisition as provided in Section 127. Another issue was what is the meaning of “steps as aforesaid”. We are referring to the majority view in the said decision. Paragraph Nos. 52 to 60, of the said decision read thus :-

“52. In light of the abovementioned factual matrix, the question of law involved in Municipal Corpn. of Greater Bombay case⁴ was as follows: (SCC pp. 57-58, para 2)

“2. The short point involved in this appeal by special leave from a judgment of a Division Bench of the Bombay High Court dated June 18, 1986, is whether the period of six months specified in Section 127 of the Act is to be reckoned from the date of service of the purchase notice dated July 1, 1977 by the owner of the planning authority i.e. Municipal Corporation of Greater Bombay here, or the date on which the requisite information of particulars is furnished by the owner.”

The Court has answered the above question as follows: (SCC p. 60, para 7)

4 Municipal Corporation of Greater Bombay v. Dr. Hakimwadi Tenants' Assn., 1988 Supp SCC 55.

“7. According to the plain reading of Section 127 of the Act, it is manifest that the question whether the reservation has lapsed due to the failure of the planning authority to take any steps within a period of six months of the date of service of the notice of purchase as stipulated by Section 127, is a mixed question of fact and law. It would therefore be difficult, if not well-nigh impossible, to lay down a rule of universal application. It cannot be posited that the period of six months would necessarily begin to run from the date of service of a purchase notice under Section 127 of the Act. The condition prerequisite for the running of time under Section 127 is the service of a valid purchase notice. It is needless to stress that the Corporation must prima facie be satisfied that the notice served was by the owner of the affected land or any person interested in the land. But, at the same time, Section 127 of the Act does not contemplate an investigation into title by the officers of the planning authority, nor can the officers prevent the running of time if there is a valid notice.”

Thus, after perusing the judgment in Municipal Corpn. of Greater Bombay case we have found that the question for consideration before the Court in Municipal Corpn. of Greater Bombay case has reference to first step required to be taken by the owner after lapse of 10 years' period without any step taken by the authority for acquisition of land, whereby the owners of the land served the notice for dereservation of the land. The Court was not called upon to decide the case on the substantial step, namely, the step taken by the authority within six months of service of notice by the owners for dereservation of their land which is second step required to be taken by the authority after service of notice.

53. The observations of this Court regarding the linking of word “aforesaid” from the wordings “no

steps as aforesaid are commenced for its acquisition” of Section 127 with the steps taken by the competent authority for acquisition of land as provided under Section 126(1) of the MRTP Act, had no direct or substantial nexus either with the factual matrix or any of the legal issues raised before it. It is apparent that no legal issues, either with respect to interpretation of words “no steps as aforesaid are commenced for its acquisition” as stipulated under the provisions of Section 127 or any link of these words with steps to be taken on service of notice, were contended before the Court. Thus, observations of the Court did not relate to any of the legal questions arising in the case and, accordingly, cannot be considered as the part of ratio decidendi. Hence, in light of the aforementioned judicial pronouncements, which have well settled the proposition that only the ratio decidendi can act as the binding or authoritative precedent, it is clear that the reliance placed on mere general observations or casual expressions of the Court, is not of much avail to the respondents.

54. When we conjointly read Sections 126 and 127 of the MRTP Act, it is apparent that the legislative intent is to expeditiously acquire the land reserved under the Town Planning Scheme and, therefore, various periods have been prescribed for acquisition of the owner's property. The intent and purpose of the provisions of Sections 126 and 127 has been well explained in Municipal Corpn. of Greater Bombay case. If the acquisition is left for time immemorial in the hands of the authority concerned by simply making an application to the State Government for acquiring such land under the LA Act, 1984, then the authority will simply move such an application and if no such notification is issued by the State Government for one year of the publication of the draft regional plan under Section 126(2) read with Section 6 of the LA Act, wait for the notification be issue by the State

Government by exercising suo motu power under sub-section (4) of Section 126; and till then no declaration could be made under Section 127 as regards lapsing of reservation and contemplated declaration of land being released and available for the landowner for his utilisation as permitted under Section 127. Section 127 permitted inaction on the part of the acquisition authority for a period of 10 years for dereservation of the land. Not only that, it gives a further time for either to acquire the land or to take steps for acquisition of the land within a period of six months from the date of service of notice by the landowner for dereservation. The steps towards commencement of the acquisition in such a situation would necessarily be the steps for acquisition and not a step which may not result into acquisition and merely for the purpose of seeking time so that Section 127 does not come into operation.

55. Providing the period of six months after the service of notice clearly indicates the intention of the legislature of an urgency where nothing has been done in regard to the land reserved under the plan for a period of 10 years and the owner is deprived of the utilisation of his land as per the user permissible under the plan. When mandate is given in a section requiring compliance within a particular period, the strict compliance is required therewith as introduction of this section is with legislative intent to balance the power of the State of "eminent domain". The State possessed the power to take or control the property of the owner for the benefit of public cause, but when the State so acted, it was obliged to compensate the injured upon making just compensation. Compensation provided to the owner is the release of the land for keeping the land under reservation for 10 years without taking any steps for acquisition of the same.

56. The underlying principle envisaged in Section 127 of the MRTP Act is either to utilise the

land for the purpose it is reserved in the plan in a given time or let the owner utilise the land for the purpose it is permissible under the town planning scheme. The step taken under the section within the time stipulated should be towards acquisition of land. It is trite that failure of authorities to take steps which result in actual commencement of acquisition of land cannot be permitted to defeat the purpose and object of the scheme of acquisition under the MRTP Act by merely moving an application requesting the Government to acquire the land, which Government may or may not accept. Any step which may or may not culminate in the step for acquisition cannot be said to be a step towards acquisition.

57. *It may also be noted that the legislature while enacting Section 127 has deliberately used the word “steps” (in plural and not in singular) which are required to be taken for acquisition of the land. **On construction of Section 126 which provides for acquisition of the land under the MRTP Act, it is apparent that the steps for acquisition of the land would be issuance of the declaration under Section 6 of the LA Act. Clause (c) of Section 126(1) merely provides for a mode by which the State Government can be requested for the acquisition of the land under Section 6 of the LA Act. The making of an application to the State Government for acquisition of the land would not be a step for acquisition of the land under reservation.** Sub-section (2) of Section 126 leaves it open to the State Government either to permit the acquisition or not to permit, considering the public purpose for which the acquisition is sought for by the authorities. Thus, the steps towards acquisition would really commence when the State Government permits the acquisition and as a result thereof publishes the declaration under Section 6 of the LA Act.*

58. the MRTP Act does not contain any reference to Section 4 or Section 5-A of the LA Act. The MRTP Act contains the provisions relating to preparation of regional plan, the development plan, plans for comprehensive developments, town planning schemes and in such plans and in the schemes, the land is reserved for public purpose. The reservation of land for a particular purpose under the MRTP Act is done through a complex exercise which begins with land use map, survey, population studies and several other complex factors. This process replaces the provisions of Section 4 of the LA Act and the inquiry contemplated under Section 5-A of the LA Act. These provisions are purposely excluded for the purposes of acquisition under the MRTP Act. The acquisition commences with the publication of declaration under Section 6 of the LA Act. **The publication of the declaration under sub-sections (2) and (4) of Section 126 read with Section 6 of the LA Act is a sine qua non for the commencement of any proceedings for acquisition under the MRTP Act. It is Section 6 declaration which would commence the acquisition proceedings under the MRTP Act and would culminate into passing of an award as provided in sub-section (3) of Section 126 of the MRTP Act. Thus, unless and until Section 6 declaration is issued, it cannot be said that the steps for acquisition are commenced.**

59. **There is another aspect of the matter. If we read Section 126 of the MRTP Act and the words used therein are given the verbatim meaning, then the steps commenced for acquisition of the land would not include making of an application under Section 126(1) (c) or the declaration which is to be made by the State Government under sub-section (2) of Section 126 of the MRTP Act.**

60. *On a conjoint reading of sub-section (1), (2) and (4) of Section 126, we notice that Section 126 provides for different steps which are to be taken by the authorities for acquisition of the land in different eventualities and within a particular time span. Steps taken for acquisition of the land by the authorities under Clause (c) of Section 126(1) have to be culminated into Section 6 declaration under the LA Act for acquisition of the land in the Official Gazette, within a period of one year under the proviso to sub-section (2) of Section 126. If no such declaration is made within the time prescribed, no declaration under Section 6 of the LA Act could be issued under the proviso to sub-section (2) and not further steps for acquisition of the land could be taken in pursuance of the application moved to the State Government by the planning authority or other authority.*

(emphasis added)

17. The Apex Court in equivocal terms held that the acquisition proceedings commence only by a declaration issued either under Sub-Section (2) or Sub-Section (4) of Section 126 of the MRTP Act read with Section 6 of said Act 1894. The Apex Court held that unless and until such declaration is issued, it cannot be said that the steps for acquisition are commenced. The Apex Court held that the steps towards the acquisition would really commence when the State Government not only permits acquisition but publishes a declaration as aforesaid under Section 6 of the said Act of 1894. The Apex Court held that, if steps are not

taken by issuing a declaration under Section 6 of the said Act, 1894 read with either Sub-Sections (2) or (4) of Section 126 of the MRTP Act within the prescribed period of six months (at the relevant time), the reservation would lapse. In the case of ***Shrirampur Municipal Council (Supra)***, a prayer was made to refer the case to a larger bench as on the ground that the view taken in the case of ***Girnar Traders (II)*** was not correct. The Apex Court reiterated that the view taken in the case of ***Girnar Trader (II)*** lays down the correct proposition of law which does not require reconsideration.

18. We have quoted the Section 127 as it existed on the date of the notice subject matter of these Petitions. The first condition for issuing a valid notice under Section 127 of the MRTP Act is that either the land reserved is not acquired by an agreement within 10 years from the date on which the development plan has come into force or the steps for acquisition of the reserved land are not commenced within a period of 10 years from the date of which the development plan has come into force. If acquisition proceeding has already commenced within the said period of 10 years before

the date on which a notice under Section 127 is issued, obviously the first condition for issuing the notice under Section 127 would not be satisfied. In what manner acquisition proceedings should be commenced is already laid down in the case of ***Girnar Traders (II)***.

19. In the present case, the said declaration under Sub-Section (4) of Section 126 of MRTP Act read with 6 of the said Act of 1894 was admittedly published well within 10 years from the date on which the first revised development plan came into force. As held earlier, the said declaration was valid on 31st May 1989 when the notice under Section 127 subject matter of these Petitions was issued. We have already rejected the contention that the said proceeding had lapsed or that the Government had abandoned the same. Therefore, it is crystal clear that, the said notice was not at all competent as the condition precedent for issuing the notice was not satisfied by virtue of the said declaration. Thus, it follows that consequences provided under Section 127 would not follow on the basis of the said notice. Therefore, no relief can be granted to the Petitioners in Writ Petition No. 807 of

1991.

20. Under Section 38 of the MRTP Act, there is a mandate laid down that at least once in 20 years (earlier 10 years) from the date on which the development plan has come into operation, the exercise of revision of the development plan shall be undertaken. To such exercise of the revision of a sanctioned development plan, the provisions of Section 22 to 28 and Sections 30 and 31 are applicable. On the conjoint reading of Section 38 and other relevant provisions of MRTP Act contained in Chapter III of the MRTP Act, it is apparent that a revised development plan is required to be prepared and sanctioned in the same manner in which the original development plan is made and sanctioned. Therefore, a revised development plan prepared by taking recourse to Section 38 which is sanctioned in accordance with Section 31 is for all purposes is a development plan contemplated Section 22 of the MRTP Act. Therefore, now, if the said land is to be acquired on the basis of the second revised development plan, a fresh declaration either under Sub-Sections (2) or (4) of Section 126 of the MRTP Act read with

Section 6 of the said Act of 1894 will have to be issued. On the basis of the said declaration made on the basis of the first revised sanctioned development plan, the said land cannot be acquired on the basis of the second revised sanctioned development plan. Though we have held that the notice dated 31st May 1989 is not valid, notwithstanding the said finding, it will be always open for the Petitioners to serve a fresh notice under Sub-Section (1) of Section 127 of the MRTP Act based on the reservation provided in the second revised development plan provided the Petitioner satisfies all the conditions specified in Sub-Section (1) of Section 127 of the MRTP Act.

21. We may also note here that notwithstanding this judgment, if the Notification dated 3rd May 2001 is still operative, it will be open for Petitioners to take recourse to the said Notification.

22. Writ Petition No. 1265 of 1993 proceeds on the footing that the reservation under the first revised sanctioned plan had lapsed on the basis of the notice dated 31st May 1989. In view of the findings recorded above, no relief can be

granted in the said Petition.

23. Accordingly, we pass following order :-

- (a) Subject to what is held and observed above, rule issued in both Petitions stands discharged. There will be no order as to costs.

(RIYAZ I. CHAGLA J.)

(A.S. OKA, J)