

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

WRIT PETITION NO. 7836 OF 2015

Shri Dharmanna Dhulappa Gore & Ors. ... Petitioners.

V/s.

The Maharashtra Industrial Development Corporation And Ors.. ... Respondents.

Mr. R. P. Sabban, Advocate for the Petitioners.

Mr. A.B.Vagyani, Government Pleader a/w. Ms. R.A.Salunkhe,
AGP for the State.

Mr. Ankit Kulkarni i/by Little & Co. for Respondent Nos. 1 to 3.

**CORAM : NARESH H. PATIL AND
SMT. BHARATI H. DANGRE, JJ.**

DATE : 23rd JUNE, 2017

P.C. :

1 The Petitioners claim to be project affected persons. It is their contention that their agricultural lands were acquired by the Maharashtra Industrial Development Corporation (MIDC) in the years 1970-73. The MIDC passed a resolution in its Board of Directors' General Body Meeting No.299 held on 11.08.2005 and took certain decision. One of the decisions relates to the Resolution No. 4008 (9.02), under which the MIDC decided to grant benefit to the persons, who are projected affected. Under the said Resolution such persons would be entitled for allotment of 15% of the acquired land

to be developed for industrial purposes and 5% of the land to be utilized for commercial purposes.

2 The Petitioners' contention is that the said benefit under the resolution of the MIDC shall be given to the Petitioners. On behalf of the MIDC, a reply was filed through Mr. Subhash M. Mali, the Area Manager of the MIDC. It would be useful to quote certain paragraphs of the affidavit -in-reply. Paragraph nos. 9.3, 9.4 & 9.5 thereof are quoted as under :

“9.3 I say and submit that the Board of the Corporation in its 299th meeting dated 12th August, 2005 passed a resolution no. 4008 thereby resolving to allot 15% industrial land or 5% commercial land to the Project Affected Persons out of their total acquired land. I say and submit that while passing the resolution it was categorically clarified by the Board of the Corporation that the decision taken in the said resolution will not be applicable to the acquisitions which are complete and where the respective awards have been passed. Annexed to the Petition as Exhibit “A” is a copy of the minutes of meeting of the Board of the Corporation dated 12th August, 2005.

9.4 I say and submit that the State Government on 20th February, 2006 approved the aforesaid policy decision taken by the Board of the Corporation in its 299th meeting dated 12th August, 2005 passed a Government Resolution, thereby approving the decision of the Board of the Corporation of allotting 15% industrial land or 5% commercial land to the Project Affected Persons. It is

pertinent to note that the said G.R. nowhere mentions that the said decision is to be made retrospectively applicable. I say and submit that in fact the State Government vide its G. R. dated 20th February, 2006 merely approved the decision taken by the Board of the Corporation in its meeting dated 12th August, 2005. Annexed to the Petition as Exhibit "B" is a copy of the G.R. dated 20th February, 2006.

9.5 I say and submit that after obtaining the approval of the State Government the Corporation issued a circular dated 17th May, 2006 thereby laying down a uniform policy for allotment of 15% industrial land or 5% commercial land to the PAPs from their respective acquired lands. I say and submit that clause 12 of the circular expressly provides that the benefits provided under the said circular will not be applicable to acquisitions which have attained finality or in respect of acquisitions where the award is passed. Annexed to the Petition as Exhibit "C" is a copy of the circular dated 17th May, 2006."

3 Learned counsel appearing for the MIDC states that the policy / benefits under the resolution will be operative prospectively. It will not be possible to grant retrospective effect to the policy decision. In fact, under the decision, the petitioners shall not be entitled to claim benefit in respect of the land which were acquired by MIDC in the years 1970-73.

4 The learned Government Pleader submitted that the Petitioners' reliance on the Government Resolution dated 20th February, 2006 (Exh. "B") is misplaced one. The State

Government merely approved the resolution of the MIDC. The State has not expressed any opinion in respect of the prospective or retrospective effect of the resolution passed by the MIDC. According to the Government Pleader, the resolution passed by the MIDC has to be implemented prospectively. The learned counsel for the Petitioners submits that in accordance with the MIDC resolution approved by the State Government, it has to be effected retrospectively which would benefit a large section of the project affected persons whose land were acquired by the MIDC. The learned counsel submits that such issues were raised in Writ Petition No. 7840 of 2015 and Writ Petition No 7839 of 2015.

5 We have perused the order passed in both the said petitions. We find that the issue concerning the prospective or retrospective effect of the resolution passed by the MIDC or the decision taken by the State, was not decided by the Division Bench. Instead, the petitioners therein were to file a comprehensive representation which was directed to be decided by the concerned authority.

6 In the present case, MIDC has clarified its stand by filing an affidavit. The learned GP has also taken instructions from the State. It is clear that the MIDC in its resolution had decided to implement the policy prospectively. It was forwarded to the State Government for seeking sanction

to the resolution in principle. Another important feature is that after the State approved the resolution passed by the MIDC, a circular came to be issued by the MIDC (Exh. "C"). Clause (12) of the said circular merely stipulates that the project effected persons, whose lands were acquired by the MIDC prior to the resolution adopted by the MIDC would not be entitled to the benefit under the said resolution. It is more than clear that the MIDC adopted the decision to extend the benefit prospectively.

7 There is no merit in the petition. It is dismissed.

(SMT. BHARATI H. DANGRE,J.)

(NARESH H. PATIL,J.)

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