

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD**

**WRIT PETITION NO. 4774 OF 2014**

**ANIL HARI BAKRE  
VERSUS  
THE STATE OF MAHARASHTRA AND OTHERS**

Mr.A.B. Kale, Advocate for the petitioner.  
Mr.S.B.Pulkundwar, AGP for respondent/State.  
Mr.V.D.Gunale, Advocate for respondent No.7.

**CORAM : S.V.GANGAPURWALA &  
S.M.GAVHANE, JJ.**

**DATED : 11.10.2018**

**P.C. :-**

1. The petitioner assails the communication dated 30.04.2014, wherein it is observed that it will not be appropriate to change the lay-out.

2. According to the petitioner, as per the Development Control Rules, in the lay-out sanctioned, 4020 sq. mtr. land would be retained as open space. In the present lay-out 5164.50 sq. mtr. land is retained as open space and further it is shown as open space and primary school. 63.50 sq. mtr. land is already reserved

for primary school. According to learned Counsel an area of 1144.50 sq. mtr is required to be handed over to the petitioner for the use and occupation as owner.

3. Mr. Gunale, learned Counsel submits that as per the Development Control Rules, 4040 sq.mtr. land is required to be retained as open space. Part of the land meant for open space and school is handed over to respondent No.7 for running Balwadi. However, the Corporation has passed resolution of taking back the said land.

4. It also appears that the petitioner had not challenged the lay-out sanctioned on 19.01.1984 for quite long time.

5. It is not disputed by learned Counsel Mr. Gunale for the Corporation that in the Development Control Rules, there is no provision for reservation of land in the lay-out for primary school, however, he relies on the

letter issued by the Director of Town Planning dated 18.11.1978.

6. The matter with regard to keeping open space for the school and the modification in the sanctioned lay-out would be a work of expert and Town Planning Department.

7. Considering the fact that statement has been made by the Corporation that a resolution is passed to get back the land allotted to respondent No.7 for running Balwadi, we are not passing further orders against respondent No.7 in the present writ petition. It is for the petitioner to take such step as is permissible in law. The petitioner shall approach the Assistant Director of Town Planning. The Assistant Director of Town Planning shall reconsider the lay-out sanctioned, more particularly, with regard to the open space and the primary school, the Development Control Rules and such other policies prevailing and take decision afresh with regard to the grievance of the petitioner after hearing

all the parties expeditiously preferably within six months. While taking fresh decision, the communication impugned in the present writ petition would not be an impediment.

8. The writ petition is disposed of. No costs.

**[ S . M . GAVHANE , J . ]**

**[ S . V . GANGAPURWALA , J . ]**