

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 14411 OF 2017

Bhagwan Shikshan Prasarak Mandal,
Through its Secretary

.. **Petitioner**

Versus

The State of Maharashtra and others

.. **Respondents**

Shri Atul M. Karad, Advocate for the Petitioner.

Shri A. S. Shinde, A.G.P. for Respondent No. 1.

Shri Ajay S. Deshpande, Advocate for Respondent Nos. 2 and 3.

**CORAM : S. V. GANGAPURWALA &
A. M. DHAVALA, JJ.**

DATE : 6th March, 2018

PER COURT :

1. The petitioner assails the order cancelling the allotment of the plot.

2. Mr. Karad, learned advocate submits that in the year - 2009 the plot was allotted to the petitioner for construction of the hospital. The petitioner is a charitable trust. Because of multifarious problems the petitioner could not construct. In the year – 2014, the permission was granted for construction. The petitioner has made 40% construction. However, because of financial stringencies also the construction could not be carried out. The learned advocate submits that now the petitioner has

made arrangements for the funds and petitioner would carry out the construction within six months. The learned advocate submits that when the petitioner had been to the respondent seeking no objection for renewal of permission, that time the show cause notice came to be issued. The petitioner gave reply to the show cause notice. The respondent did not consider the reply and straightway cancelled the allotment of plot. The learned advocate submits that the petitioner is making the construction and would develop the plot as per the construction permission within six months.

3. Mr. Deshpande, learned advocate for the respondents submits that the petitioner was allotted the plot at a subsidised rate. The plot was allotted so as to provide amenity to the public at large. No construction was carried out though permission was obtained in the year - 2014. As per the agreement the petitioner was to complete the construction within six years.

4. We have considered the submissions.

5. There cannot be any dispute that as per agreement the petitioner was required to complete the construction within six years. The agreement was executed on 16.9.2009. The construction ought to have been completed by September - 2015. In the year - 2014, the petitioner was granted construction permission. However, it appears that the petitioner did not carry

out the construction within the stipulated period as per the construction permission.

6. According to the petitioner in the year – 2017, it had approached the respondent – City and Industrial Development Corporation (*hereinafter referred to 'CIDCO'*) for grant of no objection to seek renewal of construction permission. At that time CIDCO noticed about the laches on the part of the petitioner in carrying out the construction.

7. It also appears that the plot was meant for hospital, that would be facility to the public at large.

8. It is stated by the petitioner that it has carried out 40% construction which is disputed by the respondent.

9. Be that as it may, it appears that the petitioner has initiated steps for carrying out the construction. We have considered the reasons given by the petitioner for not being in position to carry out the construction.

10. It appears that the petitioner is a charitable trust. Considering the difficulties expressed by the petitioner and that the petitioner is a charitable trust and further considering the undertaking given by the petitioner that the petitioner would complete the construction as per the construction permission

within a period of six months, we are inclined to grant one more opportunity to the petitioner, however, petitioner also deserves to be mulct with penalty.

11. Considering the above, we pass the following order -

ORDER

I] The petitioner shall pay penalty of Rs. 10,00,000/- (Rs. Ten Lacs only) to respondent – CIDCO, within a period of four weeks (4) from today.

II] On receipt of Rs. 10,00,000/- (Rs. Ten Lacs only) CIDCO shall give NOC for renewal of permission which shall be immediately submitted by the petitioner to the municipal corporation and the corporation shall as per rules grant the renewal permission.

III] On receipt of renewal permission the petitioner shall complete the construction within six months.

IV] Failure to abide by any of the aforesaid conditions would result in allotment of the plot being cancelled.

12. The writ petition accordingly stands disposed of. No costs.

[A. M. DHAVAL, J.]

[S. V. GANGAPURWALA, J.]