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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.4154 OF 2018

Builders Association of
Navi Mumbai ...Petitioner
vs.
City and Industrial Development
Corporation of Maharashtra Ltd.
and others ...Respondents

Mr.Akhilesh Dubey a/w Mr.Vagish Mishra, Mr.Samir
Singh and Dhruvi Shah i/b Law Counsellors for the
Petitioner
Mr.Sandeep Marne for the respondent Nos.3 and 4.

CORAM : A.S.OKA, &
RIYAZ.I.CHAGLA, JJ.
DATE : JUNE 4, 2018

P.C.:

1 The prayers (a) and (b) of this petition read
thus:

“(a) That this Hon'ble Court be pleased to
exercise its powers under Article 226 of the
Constitution of India and issue a Writ or
any other appropriate writ, order or
direction declaring that Regulation 27.1 of
the General development Control Regulations
for Navi Mumbai Municipal Corporation,1994
sanctioned under section 37 of Maharashtra
Regional and Town Planning Act,1966 is
violative of Articles 14, 19 (1)(g) and 21
of the Constitution of India in as much as

Regulation 27.1 ought to have been a subset of Regulation 24 which concerns "Layouts and Sub-Division of Land" rather than an independent Regulation.

(b) That this Hon'ble Court be pleased to exercise its powers under Article 226 of the Constitution of India and issue a Writ or any other appropriate writ, order or direction directing Respondent No.3 to amend its General Development Control Regulations for Navi Mumbai Municipal Corporation 1994 vis-a-vis the CIDCO General Development Regulations for Navi Mumbai – 1975 as amended upto 21st of September 1994 by incorporating Regulation 27.1 as a sub-set to Regulation 24."

2 It is well settled law that the preparation of a development plan under the Maharashtra Regional and Town Planning Act, 1966 partakes character of a legislative function. By these prayers (a) and (b), the petitioner is seeking a writ of mandamus directing that the Development Control Regulations should drafted in a particular manner as set out in prayers (a) and (b). Such a writ of mandamus can never be issued by a writ Court exercising power under Article 226 of the Constitution of India. Only other substantial prayer is prayer clause(c) which impugns circular dated 27th January 2016. On plain reading of the said circular, we find that the same has been issued by the Navi Mumbai Municipal

Corporation for giving effect to the directions issued by this Court under the order dated 8th December 2016 in Public Interest Litigation No.159 of 2015. Therefore, even the said prayer cannot be entertained. If the petitioner is contending that a particular Regulation in the Development Control Regulations is illegal, the petitioner can always file a fresh petition seeking quashing the particular Regulation. None of the prayers made in this petition can be granted by the writ Court.

3 Subject to what is observed above, writ petition is disposed of.

4 We make it clear that we have made no adjudication on the issue of legality and validity of relevant Development Control Regulation.

(RIYAZ.I.CHAGLA,J.)

(A.S.OKA,J.)