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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.3765 OF 2015

Prashant Sudam Jagtap & Anr	...Petitioners
vs.	
State of Maharashtra	
and others	...Respondents

ALONG WITH
WRIT PETITION NO.4675 OF 2015

Subhash Jagtap & Anr.	...Petitioners
vs.	
State of Maharashtra	
and others	...Respondents

Mr.Manoj M. Badgujar for the Petitioners in
WP.No.4675/2015
Mr.A.V.Anturkar, Senior Advocate i/b Mr.Sugandh
B.Deshmukh for the petitioners in W.P.No.3765 of
2015
Mr.R.A.Salunkhe, AGP for the respondent-State
Mr.Abhijit P. Kulkarni for respondent No.3 in
W.P.No.4625/20215

CORAM : A.S.OKA, &
 P.N.DESHMUKH, JJ.
DATE : FEBRUARY 20, 2018

P.C.:

1 In Writ Petition No.3765 of 2015, the challenge is to the order dated 27th March 2013 passed by the Urban Development Department of the State Government. The order concerns draft development plan of the Pune Municipal Corporation. By the said order, the State Government noted that the time limit for sanction of draft development plan expired on 28th September 2014 and that the Pune Municipal Corporation had failed to submit the draft

development plan within the time limit. Hence, in exercise of power under section 162 of the Maharashtra Regional and Town Planning Act, 1966 (for short 'MRTP Act'), a Committee was constituted which was headed by the Divisional Commissioner, the Municipal Commissioner and the Joint Director, Town Planning. It was observed that it was the duty of the Municipal Corporation as the planning authority to complete the preparation of the draft development plan and to submit the same to the State Government for sanction. A finding was recorded that the Municipal Corporation failed to perform its duty as the planning authority of submitting the draft development plan on or before 19th March 2015 as provided by the Maharashtra Regional and Town Planning Act, 1966 (for short 'MRTP Act'). Therefore, the aforesaid Committee was directed to perform the duty of the Municipal Corporation and to submit a draft development plan to the State Government within a period of six months from the date of the said order. The said order also purports to invoke section 148A of MRTP Act extending the time by 88 days on account of applicability of the code of conduct for the elections of Lok Sabha and Vidhansabha. It also refers to the order passed by this Court in Writ Petition Nos.6125 of 2013 and 6753 of 2013.

2 During the pendency of these petitions, the committee constituted by the State Government in purported exercise of power under section 162 of MRTP Act, submitted a draft development plan to the

State Government, a part of which has been already sanctioned. Even in Writ Petition No.4675 of 2015, the challenge is to the said order dated 27th March 2015.

3 The learned senior counsel appearing for the petitioners in Writ Petition No.3765 of 2015 submitted that section 148-A of MRTP Act was not applicable even assuming that the facts stated in the order are correct. The second contention based on section 145A of the MRTP Act is that the period for which the Code of Conduct on account of Loksabha and Vidhansabha elections was in force cannot be excluded in as much as the Code of Conduct does not prevent the Municipal Corporation as the planning authority in performing its statutory obligations under various provisions of the MRTP Act including section 30 thereof. He submitted that in the writ petitions which are referred in the order, there were no restraint orders passed by this Court and only a statement of the Government Pleader was recorded. He urged that Section 162 of MRTP Act could not have been invoked as there was no failure on the part of the Municipal Corporation to perform statutory duty.

4 It is true that these two petitions of the year 2015 remained pending for admission for last two years. It is also true that in the Writ Petition No.3765 of 2015 this Court by order dated 10th April 2015 directed the State Government to file a reply but the reply is not yet filed.

5 However, the fact remains that during the pendency of this petition, acting upon the impugned order, the Committee constituted by the State Government has submitted a draft revised development plan to the State Government, a substantial portion of which has been sanctioned by the State Government by exercising the power under the MRTTP Act. As is clear from the provisions of the MRTTP Act, for preparation of draft development plan or revised draft development plan, a huge exercise is required to be undertaken by the Planning Authority. Therefore, unless the petitioners have any specific grievance about any portion of the revised development plan which is already sanctioned, the issues raised need not be gone into as the issues remain academic. As and when remaining part of the development part is sanctioned by the State Government and if the petitioners are aggrieved by any part thereof, the petitioners can always impugn the action of sanctioning a part of the development plan and/or on all grounds raised in this petition.

6 Unless the petitioners are aggrieved by any specific part of the development plan which is sanctioned or which may be sanctioned in future, the exercise of deciding the issues raised will be academic. Therefore, we decline to entertain these petitions.

7 Subject to what is observed above, the writ petitions are disposed of. All contentions of the

parties are kept open.

(P . N . DESHMUKH , J .)

(A . S . OKA , J .)