

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

PUBLIC INTEREST LITIGATION NO. 53 OF 2019

Rajendra Gangadhar Bhujbal & Ors. Petitioners

Versus

The State of Maharashtra & Ors. Respondents

.....
Mr. Ajinkya Kale, Advocate h/f Mr. S. B. Talekar, Advocate for the
petitioner

Mr. S. P. Sonpawale, AGP for respondents No. 1 to 5

Mr. A. V. Hon, Advocate for respondent No. 6

Mr. S. P. Shah, Advocate for respondent No. 7

Mr. V. S. Kadam, Advocate for respondent No. 8

.....

CORAM : PRASANNA B. VARALE

AND

AVINASH G. GHAROTE, JJ.

DATE : 01ST OCTOBER, 2019

PER COURT:-

1. On the submission of the learned counsel appearing for the petitioner that due to insistence of certain private parties there is a deviation in the development plan and the petitioner is espousing the cause of the public, the notice was issued to the respondents. In response to the notice, Mr. A. V. Hon, learned advocate causes appearance for respondent No. 6, Mr. S. P. Shah, learned counsel appears for respondent No. 7 and Mr. V. S. Kadam, learned advocate appears for respondent No. 8.

2. Shri. Kadam, the learned counsel appearing for respondent No. 8, subsequently added as a party to the petition, submitted before this Court that the very premise on which the petition proceeds and the prayer made in the petition would show that the petition is a pre-mature petition. Our attention was invited to the prayer clause 'A' and the same reads thus:

[A] To quash and set aside the impugned revised development plan 'Exh-Q' of Shirdi to the extent of changes and modification of Site Nos. M-3, M-6, M-18 and M-30 causing serious impact to the 18 meters wide road (ring road), by issuing a writ of certiorari or any other writ, order, direction as the case may be.

3. Mr. Kadam then invited our attention to the documents placed on record i.e. an objection raised by Shirdi Nagar Panchayat dt. 08.01.2019 and an annexure in tabular form. Mr. Kadam submitted that, the objections were raised to a draft development plan and this fact is reiterated in the title of a document placed on record at Pg. 113 i.e. प्रारूप विकास योजना, शिर्डी (सु.) फेरबदलांची/बदलांची सुचीबाबत नगरपंचायतद्वारे निदर्शनास आणावयाच्या बाबी क्र. १ ते १९ प्रमाणे.

4. The learned counsel for the petitioner submitted that, it was only a mistake that, while referring the draft development plan in prayer 'A', it is stated as 'revised development plan' instead of a 'draft development plan'. The learned counsel for the petitioner then admits

this fact situation that, post filing of the petition, the State Government published the development plan under the Government Gazette Notification dt. 19.09.2019. The same is taken on record and marked “X” for identification. The concluding part of the notification states that, the final development plan as approved by the State Government would be placed in the office of Nagar Panchayat, Shirdi, for perusal of the public general for a period of one month from the date of its publication. Then, another document of the same date is placed on record which is a Notification dt. 19.09.2019 bearing No. शासन निर्णय क्र. टिपीएस-१६१९/४६१/प्र.क्र.८१(ब)/२०१९/नवि-९, which provides an opportunity to raise objections and suggestions in respect of the proposed modifications of substantial nature, as specified in Schedule - ‘B’, within a period of 30 days from the date of publication of the notice in the Official Gazette, which is in respect of the proposed modifications which are apart from those sanctioned in the earlier notification. The competent authority appointed by the State Government to hear suggestions/objections is a Joint Director of Town Planning, Nashik Division, Nashik and it is stated that the suggestions/objections received within the stipulated period of 30 days from the date of publication of the notice in the Official Gazette shall only be considered. In view of these two gazette notifications, the learned counsel for the petitioner prayed for withdrawal of the petition with liberty to approach this Court

in case the petitioner feels aggrieved by the final notification or in case, in spite of objections being submitted to the competent authority these objections are not duly considered by the authority as the notification itself provides an opportunity to raise objections/suggestions. The petitioner even otherwise in law is at liberty to approach the competent authority so appointed to raise his objections.

5. With these observations, the petition is disposed of as withdrawn with liberty as prayed for.

6. The petitioners have deposited an amount of Rs. 25,000/-, to show *bona fides*. The learned counsel for the petitioners submits that, part of the amount be disbursed for any social cause and part of the amount be permitted to be withdrawn by the petitioners.

7. Accordingly, we permit the petitioners to withdraw an amount of Rs. 15,000/- (Rupees Fifteen Thousand) and an amount of Rs. 10,000/- (Rupees Ten Thousand) be transferred to the High Court Bar Association Library, Aurangabad.

[AVINASH G. GHAROTE]
JUDGE

[PRASANNA B. VARALE]
JUDGE