

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE**

WRIT PETITION NO.4203 OF 2018

Baban R. Gosavi & Ors.

... Petitioners

Vs

Maharashtra Industrial Development
Corporation & Ors.

... Respondents

Mr.A.G. Damle, Senior Advocate i/b Mr.Nitin Mulye for the
Petitioners

Mr.G.S. Hegde with Mr.C.M. Lokesh i/b A.R. Bhole & Co. for
Respondent Nos.1 & 2

Mr.P.B. Rahade for Respondent No.4

Ms.Neha Bhide, 'B' panel Counsel for Respondent No.3

**CORAM: AKIL KURESHI &
S.J. KATHAWALLA, JJ.**

DATED: AUGUST 7, 2019

P.C.:

1. Heard the learned Counsel for the parties for final disposal of the petition.
2. The petitioners have prayed for a direction for allotment of plots admeasuring 32 sq.mtrs. each adjacent to the petitioners' existing commercial units. The petitioners have also prayed for a

declaration that the allotment of a plot of land No.22 admeasuring 6748 sq.trrs to Respondent No.4 by respondent Nos.1 and 2 is illegal.

3. Brief facts are as under:

This petition is filed with 16 petitioners. They are enjoying use and occupation of plots of land admeasuring approximately 16 sq.mtrs. each allotted to them by respondent No.1 – Maharashtra Industrial Development Corporation (for short, 'MIDC') at Satpur. On such plots, the petitioners have set up their businesses such as xerox shop, transport centre, tea stalls, courier service, etc. They had applied to the MIDC for allotment of additional land of 325 sq.mtrs. each adjacent to their existing allotted plots on the ground that they require such additional land for expansion of their businesses. The MIDC rejected such request under letter dated 28.11.2009 contending that the land which the petitioners request for allotment, is an open land.

4. During the course of correspondence with MIDC, the petitioners learnt that out of a larger plot of land adjacent to petitioners' existing units, MIDC has allotted land admeasuring 5500 sq.mtrs to respondent No.4 for expansion of its existing

industry. Remaining area of 6748 sq.mtrs. has been allotted again to respondent No.4 for tree plantation. In this context, the petitioners have made above noted prayers.

5. The MIDC has filed reply and opposed the petition mainly pointing out that allotment of land can be done only on the basis of auction. Such requirement can be relaxed only for existing industries. The petitioners are not carrying on any industrial activities. The relaxation as per the policy of the Corporation would not apply to the petitioners. It is further pointed out that by following proper procedure, additional land of 5500 sq.mtrs was allotted to respondent No.4 for expansion of existing industry. With respect to the allotment of additional land of 6748 sq.mtrs. for tree plantation, however, there is no mention in the reply.

6. Respondent No.4 has not filed any reply.

7. Having hearing the learned Counsel for the parties and having perused the documents on record, what emerges is that the petitioners have their commercial establishments set up on the plots allotted by the MIDC. The MIDC policy normally requires allotment of plots through auction after inviting interested parties to

apply. The Circular dated 6.10.1993 refers to such norms. Further Circular dated 27.4.2012 refers to deviation in this policy for expansion of “audyogic” establishments. There may be some possibility of interpretation of this term whether “audyogic” would mean industrial. However, we find force in the contention of the Counsel for the MIDC that the Corporation itself was set up for development of industries in the State. For such purpose, MIDC would acquire lands and set up industrial estates to facilitate industrial expansion. The policy, therefore, was formulated to enable existing industrial units to seek allotment of additional land for expansion, without going through the gamut of auction. Once the auction bids are invited, it would not be certain whether the neighbouring existing industry would be able to outbid other tenderers. This would jeopardise any future expansion of the existing industry. The object behind relaxation of the condition, therefore, can be appreciated.

8. As per MIDC, when such relaxation is not offered for the commercial establishments and is confined only for the purpose of expansion of industrial units, this Court cannot direct relaxation of the policy.

9. Respondent No.4 has already been allotted additional land measuring 5500 sq.mtrs. on which, we are informed by the Counsel that construction is completed and its industry is presently functioning there. Even the petitioners have not asked for cancellation of this allotment. However, insofar as the allotment of the additional land of 6748 sq.mtrs to respondent No.4 for the purpose of tree plantation is concerned, the petitioners have made a specific prayer. We are also acutely concerned about the such allotment by MIDC.

10. There is nothing on record to suggest what procedure was followed before taking such a major policy decision. We are not examining or even proposing to disturb any of the policy matters of MIDC. Nevertheless, when such a large area of land is entrusted to a private agency, who has existing industry and expansions thereon, necessary safeguards or at least final scrutiny would be required. The learned Counsel for respondent No.4 has placed on record the allotment letters dated 6.6.2017 and 16.8.2017 under which the subject plot came to be allotted to respondent No.4. For want of full information and material on record, we restrain from making further observations. We, however, direct the MIDC to

redo the entire process at the highest level and pass a fresh order. Until this is done, the allotment of this additional land of 6748 sq.mtrs. in favour of respondent No.4 for any purpose at all, would not be operative.

11. Insofar as the petitioners' main prayer is concerned, the same cannot be granted. This would not preclude the petitioners from making an appeal to the MIDC for allotment in terms of its policy if so permitted. The MIDC to take one time policy decision if it so inclines.

12. Writ Petition is disposed of accordingly.

(S.J. KATHAWALLA, J.)

(AKIL KURESHI, J.)