

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.8528 OF 2015

Mrs. Pusha Ghodvinde & Others Petitioners
Vs.
State of Maharashtra & Others Respondents

WITH
CIVIL APPLICATION NO.2081 OF 2016
IN
WRIT PETITION NO.8528 OF 2015

Vilas Sukur Tare Applicant
In the matter between
Mrs. Pushpa Ghodvinde & Others Petitioners
Vs.
State of Maharashtra & Others Respondents

Mr. Ravindra Lokhande with Mr. Rajesh Rathod
for the Petitioners.
Mr. Ram Apte, Senior Advocate (Amicus curiae),
present.
Mr. N.K. Rajpurohit, AGP, for Respondent Nos.1 & 5.
Ms Swati H. Sagvekar for Respondent No.2.
Mr. Upencha Lokegaonkar i/by D.A. Athavale for
Respondent No.4.
Mr. Rajesh S. Datar with Ms Minal Jadhav for the
Applicant in CAW-2081/2016.

CORAM: S.C. DHARMADHIKARI &
G.S. PATEL, JJ.

DATE : SEPTEMBER 03, 2019

ORAL ORDER (Per Shri S.C. DHARMADHIKARI, J.):

1. The petitioners before this Court are challenging a
Government Notification dated 21-2-2015, copy of which is at

Exhibit "A" to the petition.

2. This Notification will have to be reproduced to appreciate the challenge of the petitioners:

"URBAN DEVELOPMENT DEPARTMENT

Mantralaya, Mumbai 400 032.

NOTIFICATION

**MAHARASHTRA REGIONAL AND TOWN PLANNING
ACT, 1966**

No.TPS.1214/UOR-54/CR-17/15/UD-12.-

Whereas, the City and Industrial Development Corporation (CIDCO) (hereinafter referred to as "the said Authority") had been appointed as the Special Planning Authority under the provisions of section 40 of the Maharashtra Regional and Town Planning Act, 1966 (Mah.XXXVII of 1966) (hereinafter referred to as "the said Act") for the Vasai-Virar Sub-Region by the Government of Maharashtra vide Urban Development Department Notification No.TPS.1288/639/CR126/UD-12, dated 14th May 1990;

And whereas, the Vasai-Virar City Municipal Corporation (hereinafter referred to as "the said Municipal Corporation") had been formed under sub-section (2) and (2A) of section 3 of the Maharashtra Municipal Act, 1949 (Mah. LIX of 1949) by the Government of Maharashtra vide Urban Development Department Notification No.MIS-2306/412/C.R.223/2006/UD-24, dated 3rd July 2009 and thereafter 2 more villages were included in the limit of the said Municipal Corporation by the Government of Maharashtra vide Urban Development Department Notification No.VVM-2009/88/CR-244/09/UD-23, dated 31st May 2011;

And whereas, after formation of the said Municipal Corporation and inclusion of the 2 villages in the said Municipal Corporation, 21 villages of the Vasai-Virar sub-region were left in, the jurisdiction of the said Authority which are at scattered locations and it is found difficult to perform the duties of the Planning Authority for the said Authority and hence Government was requested to withdraw the appointment of the said Authority as the said Special Planning Authority;

And whereas, these 21 villages are surrounded by the area under jurisdiction of the said Municipal Corporation and for the planned development of these 21 villages and as well as to control and to provide the necessary basic infrastructure, it is required to bring these 21 villages under the control of the said Municipal Corporation and hence the Government is of the opinion that the appointment of the said Authority as the Special Planning Authority for these 21 villages may be withdrawn and the said Municipal Corporation may be appointed as the Special Planning Authority;

And whereas, the Municipal Corporation which is formed under the powers bestowed under the Municipal Corporation Act, comes under the ambit and scope as contemplated under section 40(1)(b) of the said Act.

Now therefore, in exercise of the powers conferred under clause (b) of sub-section (1) of section 40 of the said Act and all other powers enabling it in this behalf, the Government of Maharashtra hereby-

(i) Withdraws the appointment of CIDCO as the Special Planning Authority for the remaining 21 villages of the Vasai-Virar sub-region as specified in the Schedule appended hereto.

(ii) Appoints the Vasai-Virar City Municipal Corporation to be the Special Planning Authority for these 21 revenue villages as specified in the Schedule appended hereto.

(iii) The Development Plan of Vasai-Virar sub-region and the prevailing Development Control Regulations of the Vasai-Virar City Municipal Corporation shall be applicable for these 21 revenue villages as specified in the Schedule appended hereto.

(iv) Fixes the date of publication of this notification in the Government Gazette as the date of coming into force of this notification.

Copy of the plan showing the boundaries of the aforesaid 21 revenue villages shall be available for inspection for the general public during office hours on all working days at the following offices for a period of one month:-

(1) The Divisional Commissioner, Konkan Division, Konkan Bhavan, Navi Mumbai.

(2) The Chief Planner, CIDCO, CIDCO

Bhavan, CBD Belapur, Navi Mumbai 400 614.

(3) The Collector, Palghar.

*(4) The Joint Director of Town Planning,
Konkan Division, Konkan Bhavan, Navi Mumbai.*

*(5) Assistant Director of Town Planning,
Palghar Branch, Palghar.*

*(6) The Town Planner, Palghar Branch,
Palghar.*

*This Notification shall also be published on the
Government website-www.maharashtra.gov.in*

SCHEDULE

(Accompaniment to The Government Notification

No.TPS.1214/UOR-54/CR-17/15/UD-12.-

Dated the 21st February 2015.

<i>Sr. No. (1)</i>	<i>Name of the Villages (2)</i>
1	Arnala
2	Arnala Killa
3	Patilpada
4	Mukkam
5	Tembi
6	Kolhapur
7	Chandrapada
8	Tokri
9	Khairpada
10	Vasalai
11	Rangao
12	Doliv
13	Khardi
14	Khochiwada
15	Pali
16	Tivri
17	Octane

18	Tarkhad
19	Maljipada
20	Satpala
21	Kalamb

*By order and in the name of the
Governor of Maharashtra,*

*SANJAY V. PAWAR,
Section Officer."*

3. At Exhibit "B" (pages 24-25) are the Development Control Regulations 2001 for Vasai-Virar Sub Region (Final). The same read thus:-

**"DEVELOPMENT CONTROL REGULATIONS
2001 FOR
VASAI-VIRAR SUB REGION (FINAL)**

**SANCTIONED UNDER SECTION 31 OF THE
MAHARASHTRA REGIONAL AND TOWN PLANNING
ACT, 1966 BY THE GOVERNMENT OF
MAHARASHTRA VIDE URBAN DEVELOPMENT
DEPARTMENT'S NOTIFICATION NO.TPS-1201/1813/
CR-48/2002/UD-12
DT. 16-2-2004
TO TAKE EFFECT FROM 1st MARCH, 2004.**

PREAMBLE

Government has formulated Vasai-Virar Sub-region for part area from Vasai Tahsil in the Mumbai Metropolitan Region on 31-8-1988 and modified the said Regional Plan in respect of the above sub-region under sub-section 4 of Section 20 of the MR & TP Act, 1966 vide notifications dated 14-5-1990 and 16-11-1992. Subsequently, the City and Industrial Development Corporation (CIDCO) has been appointed as Special Planning Authority under Section 40 of the said Act on 14-5-1990 for planning and development of this sub-region. The Special Planning Authority had, after carrying out the procedure laid down in Sections 23, 24, 25, 26 and 28, prepared a draft Development Plan for the said sub-region and had submitted it on 31-8-1998 under Section 30 of the said Act, to Government for getting sanction. A set of Development

Control Regulations was one of the accompaniments of the draft Development Plan. The State Government, however, had not accorded sanction to the submitted draft Development Plan by the CIDCO and has now published the said draft Development Plan under Section 29 of the Act for inviting objections/suggestions from the public in respect of all the proposals on 19-1-2000. A committee under Section 162 of the said Act has subsequently been appointed to carry out further procedure laid down in Sections 28, 29 and 30 of the Act.

The Committee appointed for Vasai-Virar Development Plan is consisting of three members viz. i) the Metropolitan Commissioner, MMRDA, Mumbai as Chairman; ii) the Dy. Director of Town Planning, Konkan Division, Navi Mumbai, as Convenor; and iii) Shri S.V. Surve, Rtd. Dy. Director of Town Planning as Member. Now this Committee has, on having heard all the objections/suggestions received by the Government and considering the views of the four municipal councils and of the concerned grampanchayats situated in the sub-region, finalised the Development Control Regulations for permissions to be granted and for controlling as well as regulating the use and development of lands in the Sub-Region.

The Committee has published these Development Control Regulations in (i) MMRDA's office, Bandra, (ii) CIDCO's Office, Vasai, (iii) Dy. Director of Town Planning's Office, Konkan Bhavan, CBD, Navi Mumbai, (iv) Assistant Director of Town Planning's office, Thane, (v) Tehsildar's office, Vasai, (vi) Municipal Offices of Vasai, Navghar-Manikpur, Virar and Nallasopara, (vii) Taluka Panchayat Samiti's office, Vasai as required under sub-section (4) of Section 28 of the Act. The notice in English and Marathi bearing No.DP/Vasai-Virar/Section 28/2001/456 dated 13/7/2001 in this respect is published in the Maharashtra Government Gazette, Part II dated 9th August 2001 on pages 1705 and 1706. This notice is also published in the newspapers dated 24/7/2001.

These Development Control Regulations are submitted to State Government by the committee under sub-section (2) of Section 30 of the M.R. & T.P. Act, 1966, for getting sanction and their enforcement.

The Government of Maharashtra has now sanctioned these Development Control Regulations with modifications M-1 to M-14 and excluding those parts stated as EP-1 to EP-7 vide Urban Development Department's notification to TPS-120/1813/CR-

48/2002/UD-12 dt. 16th Frb. To take effect from 1st March, 2004."

4. A perusal of this Notification reveals that, the City and Industrial Development Corporation ("**CIDCO**") had been appointed as the Special Planning Authority ("**SPA**") under Section 40 of the Maharashtra Regional and Town Planning Act, 1966 ("**MRTP Act**") for the Vasai-Virar Sub-Region by the Government of Maharashtra by Urban Development Department Notification dated 14-5-1990. The Vasai-Virar City Municipal Corporation ("**VVCMC**") had been formed in exercise of the powers conferred by the Maharashtra Municipal Corporations Act, 1949 by the Government of Maharashtra Notification dated 3-7-2009 and thereafter 2 more villages were included in the limits of this Municipal Corporation by the Government of Maharashtra Notification dated 31-5-2011. Thus, the initial Notification dated 3-7-2009 included 21 villages and thereafter 2 more villages were added. After the formation of the said Municipal Corporation and inclusion of the 2 villages in the said Municipal Corporation, 21 villages of this Vasai-Virar Sub-Region were left and they were in the jurisdiction of CIDCO. They were at scattered locations. It was difficult to perform the duties of Planning Authority by the CIDCO and hence the Government of Maharashtra was requested to withdraw the appointment of the CIDCO as the SPA. Thereafter, in exercise of the powers conferred by Section

40(1B) of the MRTP Act, the Government of Maharashtra exercised the powers and brought these scattered 21 villages within the planning limits of the SPA. The VVCMC has been appointed as the SPA for these 21 revenue villages, as specified in the Schedule appended to this Notification.

5. The petitioners before us challenge this by urging that the respective village Panchayats are no longer the Planning Authority. That is an elected body. On that the villagers had true and effective representation. By choosing their representatives by a democratic process, these representatives were voicing the villagers' grievances before the Gram Panchayats and that is how the Gram Panchayats of these villages, as the Planning Authority, were able to regulate and control the development within the village limits. Thus, the development was regulated and controlled and not unrestricted or uncontrolled. Now, the CIDCO having been denuded of its power and on CIDCO also the petitioners had their representation, once the VVCMC takes over as the SPA, the petitioners would be deprived of their true and effective representation. Now, the planning and development permissions would be within the exclusive domain of this SPA. That is not conducive to the concept of legal self-government and equally the village authority no longer in charge of planning, now, an integrated and proper development of these

villages will not be possible. On account of lack of representation, all the more the petitioners would have to face several difficulties. The CIDCO may have made any representation but the Government was not bound to accept it. The Government should have considered the position prevailing prior to the CIDCO serving as the SPA. The petitioners' contention is that the limits of the Municipal Corporation cannot be extended beyond its jurisdiction, since the Constitution of India by Article 243-Q provides for the procedure for urbanisation of village area. The Government of Maharashtra has not followed the procedure for extension of jurisdiction of the VVCMC over the 21 villages and thereafter in issuing the Government Resolution dated 21-2-2015, appointing this Municipal Corporation as the SPA. The petitioners say that these village Panchayats are separate, independent entities under the 73rd and 74th Amendments to the Constitution and therefore their powers cannot be taken away or curtailed by the impugned Notification. The authority conferred in a unit of local self-government cannot be transferred to another unit of self-government without inviting objections and suggestions.

6. On these grounds, which are elaborated above, Mr. Lokhande, appearing for the petitioners, has taken us through Section 40 of the MRTP Act, the Constitutional

provisions, particularly Part IX and Part IX-A, styled as the 73rd and 74th Amendments so also the impugned Notification. We have also been taken through the Judgment of the Hon'ble Supreme Court in the case of **Rajendra Shankar Shukla & Others V/s. State of Chhattisgarh & Others**, reported in (2015) 10 SCC 400.

7. There is an affidavit in reply filed by the State Government. That affidavit clarifies the position. In that affidavit, the deponent deposing on behalf of the Government has pointed out in details the position emerging from all the records.

8. The deponent pertinently relies upon the provisions referred to in the Notification itself and says that, the Urban Development Department, in exercise of the powers conferred by Clause (a) of sub-section (3) of Section 3 of the then Bombay Provincial Municipal Corporation Act, 1949 ("**BPMC Act**"), and as required by sub-section (4) of that section, altered the limits of the City of Vasai-Virar Municipal Corporation vide Notification dated 31-5-2011. Thus, it is stated that the Corporation consists of the area of this Vasai-Virar Municipal City Council, Navghar-Manikpur City Council, Nalasopara City Council, Virar City Council and areas of 53 villages from Thane District. The initial Notification of 3-7-2009 and the further Notification resulted in a communication from the CIDCO. The

CIDCO says that for the 23 villages which are in the Vasai-Virar Sub-Region but never formed part of the Vasai-Virar Municipal Corporation and which are adjacent to this Municipal Corporation areas, makes it very difficult for the CIDCO to plan for such scattered pockets and hence requested the State Government to withdraw the status of CIDCO as the SPA for the said area. In exercise of the powers conferred by sub-section (1B) of Section 40, the impugned Notification has been issued. It is clear that for the 21 villages the function of the earlier SPA-CIDCO has been assigned to VVCMC by withdrawing CIDCO as the SPA and appointing the VVCMC as the SPA. The decision was taken in view of the written request made by CIDCO to the State Government and its difficulty pointed out therein. Since the 21 villages are at scattered locations and surrounded by the area under the jurisdiction of the VVCMC, in our view, for the planned development of these undeveloped villages and to provide the basic necessary infrastructure it was found expedient to bring the said area under the control of the Corporation and that is how an effective planning mechanism is carved out. In the present case, there is no confusion because the jurisdiction of the VVCMC, as a local authority, has not been extended. For the area within its limits, the Municipal Corporation has been appointed as the SPA. The two enactments, namely, the BPMC Act and the MRTP Act, which have been referred to by the petitioners therefore cover

urban administration and urban planning. The two enactments cannot be mixed. There is no question of taking away the autonomy and independence of any Town Planning Authority. In the present case, the change is that for the notified area of 21 villages now the SPA status has been conferred on the existing Municipal Corporation.

9. We find this affidavit to be a complete answer to the arguments of Mr. Lokhande. In the present scenario, the power that is exercised is traceable to Section 40 of the MRTP Act. To the extent relevant, that provision reads as under:-

“[40. Special Planning Authority for developing certain [notified areas]

*(1) The State Government may, by notification in the Official Gazette [**] for any undeveloped area specified in the notification in this Act referred to as “the notified area” either—*

(a) [constitute an authority consisting of] a Chairman, a Vice-Chairman, a member of the Maharashtra Legislative Assembly representing the notified area, one member representing the municipal area, if any, included in the notified area, the Deputy Director of Town Planning, and the Executive Engineer, Public Health Works Division, each having jurisdiction over the notified area, and an officer not below the rank of an Assistant Collector; or

[(aa) appoint the Authority constituted under the Maharashtra Housing and Area Development Act, 1976, or]

(b) appoint any Development Authority declared under sub-section (3A) of section 113; [or

(c) appoint the Bombay Metropolitan Region Development Authority established under the Bombay Metropolitan Region Development Authority Act, 1974, to be the Special Planning Authority for developing the

notified area.]; or

(d) appoint the Metropolitan Region Development Authority established under the Maharashtra Metropolitan Region Development Act, 2016.

[(1A) Notwithstanding anything contained in sub-section (1), any area where Chapter VI of the Maharashtra Industrial Development Act, 1961 (hereinafter, in this section, referred to as "the said Act"), applies, or any other area comprising Government land handed over to the Maharashtra Industrial Development Corporation established under section 3 of the said Act, shall be deemed to be "the notified area"; and the Maharashtra Industrial Development Corporation shall be the Special Planning Authority in respect of such notified area, and shall be deemed to have been appointed as such under this section for the purposes of this Act:

Provided that, at any time, as provided in the first proviso to sub-section (3) of section 1 of the said Act, where the State Government by notification in the Official Gazette, directs that the said Chapter VI shall cease to be in force in that area or any part thereof, from the date specified in such notification, then from such date, the said area or part thereof, as the case may be, shall cease to be the notified area and the Maharashtra Industrial Development Corporation shall cease to be the Special Planning Authority for the purposes of this Act for such area or part thereof:

Provided further that, the provisions of clauses (e) and (f) of sub-section (3) or of sections 116, 117, 126, 127 and Chapter VIII shall not be applicable to such Special Planning Authority.]

[(1B) Notwithstanding anything contained in sub-section (1), the State Government may, by notification in the Official Gazette, appoint any agency or authority created by or in accordance with Government order or instrument, or any company or corporation established by or under any State or Central law, to be the Special Planning Authority for any notified area.]"

By sub-section (1), the State Government is empowered to issue Notification for any undeveloped area specified in the Notification and referred to as the notified area so as to enable

it to constitute an authority within the meaning of clause (a) of sub-section (1) of Section 40, or appoint the Authority constituted under the Maharashtra Housing and Area Development Act, 1976, or appoint any Development Authority declared under sub-section (3A), or appoint the Bombay Metropolitan Region Development Authority to be the Special Planning Authority for developing the notified area. Now, the Metropolitan Region Development Authority established under the Maharashtra Metropolitan Region Development Authority Act, 2016 can be the SPA.

10. Sub-section (1A) deals with an area where Chapter VI of the Maharashtra Industrial Development Act, 1961 applies, or any other area comprising Government land handed over to the Maharashtra Industrial Development Corporation (“**MIDC**”) and for that notified area the MIDC can be appointed as the SPA. This is notwithstanding what is contained in sub-section (1). Similarly, notwithstanding anything contained in sub-section (1), the State Government may, by Notification in the Official Gazette, appoint any agency or authority created by or in accordance with Government order or instrument, or any company or corporation established by or under any State or Central Law, to be the SPA for any notified area. This is the mandate of sub-section (1B) of Section 40. Hitherto the CIDCO was the SPA although there were existing Gram Panchayats for

the villages inhabited by the petitioners. When such was the position prevailing and under the same statute, the petitioners had no grievance. Surprisingly, the change of the SPA status has brought to the fore this grievance and allegedly of the Gram Panchayats. Their autonomy or their independence or their status as the Planning Authority, which would have ordinarily, according to the petitioners, been conferred on them, was taken away by the CIDCO's appointment as the SPA. We do not see how by a replacement of the SPA there is any alteration of their status. The said villages now are part and parcel of the Municipal limits and governed by the Municipal Corporation for the City of Vasai-Virar. The term "Planning Authority" is defined in Section 2, sub-section (19) of the MRTP Act and to mean a local authority, and shall include a Special Planning Authority constituted or appointed or deemed to have been appointed under Section 40. These local authorities are the ones referred to in sub-section (15) of Section 2 and what we had after the MRTP Act is enacted, a position by which the Council and a Nagar Panchayat constituted under the Maharashtra Municipal Councils, Nagar Panchayats and Industrial Township Act, 1965, to be the local authority. The Zilla Parishad could also be a local authority. The MHADA was always the local authority. Other than the Municipal Corporation, there was never any situation or case where a village Panchayat is acting as such and under the MRTP Act. The words "planning authority"

means a local authority and inclusive of the SPA therefore, denotes that there is a Planning Authority and the SPA referred specifically in the MRTP Act. The object and purpose of the MRTP Act is to ensure planned development and to restrict development by regulating it. As the preamble itself suggests, that it is an Act to make provision for planning the development and use of land in regions established for that purpose and for the constitution of Regional Planning Boards therefor, to make better provisions for the preparation of Development Plans with a view to ensuring that town planning schemes are made in a proper manner and their execution is made effective, to provide for the creation of new towns by means of Development Authorities, to make provision for the compulsory acquisition of land required for public purposes in respect of the plans, and for purposes connected with the matters aforesaid. It is in these circumstances that the Government found that in the present case the CIDCO having made the request and that request is one deserving acceptance, there has to be notified another SPA. It notified the existing Planning Authority and gave it the status as the SPA. This is all within the four corners of the MRTP Act and permissible. The Municipal Administration will be governed by the Municipalities Act and in this case it is the Maharashtra Municipal Corporations Act, 1949. Prior thereto, there were Municipal Councils and now they have no complaint of being denuded of their status as Planning Authority.

11. To our mind, there is no question of interference with the Constitutional status and guaranteed to either the Village Panchayats or the Nagar Panchayats, Municipal Councils and Corporations. They have their place in the scheme of Parts IX and IX-A of the Constitution of India. That the planning for these areas and villages, which are included within the municipal limits, now is taken over by a larger local entity, namely, the Municipal Corporation does not mean that we have a constitutional imbalance or that there is a violation of any of the constitutional provisions. The argument is completely misconceived and in the scheme of the law we hardly can accept it. Mere replacement of one SPA by another, that is because in the middle of the area or in the surrounding areas which are not strictly within the CIDCO's jurisdiction. The CIDCO made the above noted request and that is accepted. The petitioner has not challenged the position in law that such a request can emerge from the CIDCO and that if it emerges/emanates from the CIDCO, the Government authority has power in law to accept it. Pertinently, the legal provisions in question are not challenged as unconstitutional or violative of the constitutional mandate enshrined in Parts IX and IX-A of the Constitution of India.

12. The reliance placed on **Rajendra Shankar**

Shukla's case (supra) is entirely misplaced. In Rajendra Shankar Shukla's case, certain land owners filed Appeals challenging common Judgment and Order of the Division Bench of the High Court of Chhattisgarh at Bilaspur. That Judgment upheld the validity of the Town Development Scheme, namely, Kamal Vihar Township Development Scheme No.4. The appellants before the Supreme Court were land owners with some construction thereon, situated in villages of Raipur District in Chhattisgarh State. The Raipur Development Authority was established under Section 38(1) of the M.P. (C.G.) Nagar Tatha Gram Nivesh Adhiniyam, 1973. The Kamal Vihar Township Development Scheme was planned by the Raipur Development Authority while discharging its function under Section 38(2) of the Act of 1973. This scheme initially started as a Small Town Development Scheme but it subsequently included five villages in Raipur within its scheme. The area was proposed for certain acres, namely, 416.93. Thereafter, a Public Notification was issued and by which the total project area was increased to 647.84 hectare. Once the area of the integrated township was increased, it resulted in inclusion of lands of the appellants and situate in the villages concerned, there was a challenge raised, particularly when the Government wanted the appellants to handover their lands. Once the private land owners did not agree to the scheme or the procedure adopted and filed Writ Petitions, their Petitions

were dismissed. They preferred Writ Appeals but that also came to be dismissed. Against that, Special Leave Petitions (c) were preferred before the Supreme Court.

13. The legal issues were, whether the scheme provided the authority to the Director of the Raipur Development Authority to formulate the Town Development Scheme and is it in contravention to the 73rd and 74th Amendments to the Constitution of India? Whether the Town Development Scheme is formulated as per Section 50(1) of the Act of 1973? and Whether the subsequent alteration of land acquired, is in consonance with the provisions of this Act? Therefore, whether the Town Planning Scheme framed in that case by the respondent, in the absence of a zonal plan, is legal and valid, and the plots could be reconstituted and the land use can be changed, and whether the proposal of the Raipur Development Authority to return 35% of the area of the land taken away from the appellants is legally permissible? In the backdrop of all this, the Hon'ble Supreme Court considered the arguments, *inter alia*, that after the insertion of Part IX-A in the Constitution, Development Plan for a District can only be drawn by a democratically elected representative body by taking into account various factors mentioned in Article 243-ZD of the Constitution. Absent that, the decision to prepare the Development Plan by the District Authorities or the State is

incompetent. It is in that context that all the observations have been made and eventually the Hon'ble Supreme Court did not agree with the High Court of Chhattisgarh. It allowed the Appeals of the land owners.

14. We do not have any such situation prevailing before us. This is no interference with the powers of the democratically elected bodies for the so called powers exercised by the democratically elected bodies, namely, the Village Panchayats were already exercised by the CIDCO as the SPA. At that time they had no grievance. The CIDCO continued even after the 73rd and 74th Amendments to the Constitution of India were brought into force. Now a mere replacement of the CIDCO by the existing Planning Authority does not mean that any of the rights of the democratically elected bodies are lost. Today, the persons residing within the limits of these villages would be part and parcel of a Municipal Corporation and would be permitted to elect their representatives. Further, the argument is not that the Planning Authority, namely, the Vasai-Virar Municipal Corporation could not have been appointed as the SPA, for that is a Corporation established by or under any State Law. Once it could be appointed the SPA in a notified area, then all the more we are not inclined to accept the arguments of the petitioners. The writ petition has no merit and it is dismissed. There will be no order as to costs.

15. In view of dismissal of the writ petition, Civil Application No.2081 of 2016, preferred in the writ petition, does not survive and it accordingly stands disposed of.

(G.S. PATEL, J.)

(S.C. DHARMADHIKARI, J.)