

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

Misc. Civil Application No.1400 of 2017 (for Review)

In

Writ Petition No.5636 of 2016 (D)

Shri Sanjay s/o Balkrushnarao Mule and others

Versus

Nagpur Improvement Trust and another

Office Notes, Memoranda of Coram,
appearances, Court's orders or directions Court's or Judge's orders
and Registrar's order

Shri A.B. Patil, Advocate for Applicants/Petitioners.

Shri S.M. Puranik, Advocate for Respondents.

Coram : R.K. Deshpande & Arun D. Upadhye, JJ.

Dated : 22nd February, 2019

This Misc. Civil Application seeks recall/review of the order dated 1-9-2017 passed by the Division Bench of this Court, thereby disposing of Writ Petition No.5636 of 2016, of which one of us (Arun D. Upadhye, J.) was a member.

This Court had disposed of Writ Petition No.5636 of 2016 seeking direction to the respondent No.1- Nagpur Improvement Trust to issue demand note and regularization letter in respect of Plot Nos.97, 112 and 113 as per the recommendations of the Deletion/Expert Committee dated 12-12-2014 and 30-5-2015 to delete the reservation of Primary School over Khasra No.85/11, Mouza Somalwada, Patwari Halka No.44. This Court observed that unless the procedure is followed, as provided under Section 127 or 49 or 37 of the Maharashtra Regional and Town

Planning Act, no relief can be granted. It also seems that the Court was under the impression that there is no such power to delete the reservation conferred under the Maharashtra Gunthewari Act for deletion of the reservation.

Our attention is invited by Shri Patil, the learned counsel appearing for the applicants/petitioners to the provisions of Sections 3, 5 and 20 of the Maharashtra Gunthewari Act to urge that the Chairman of the Nagpur Improvement Trust is conferred with the power of the Planning Authority for the purposes of the said Act and the steps can be taken under it to delete the reservation. It is further urged that several steps were taken to delete the reservation and in fact such deletion was recommended, but there was no final decision taken under Section 5 of the said Act by the Chairman of the Nagpur Improvement Trust.

We have noticed that while disposing of the writ petition, the Court had granted liberty to the petitioners to take appropriate steps, but as a result of the disposing of the writ petition, the proposal initiated under the Maharashtra Gunthewari Act has not been carried to its logical end and the direction can be issued to the Chairman of the Nagpur Improvement Trust to exercise his power under the provisions of the said Act to pass appropriate orders.

In view of the aforesaid position, we find that the order dated 1-9-2017 passed by this Court disposing the writ petition needs to be reviewed and the matter is required to be reconsidered on its own merits.

Hence, the Misc. Civil Application for recall/review is allowed. The order dated 1-9-2017 passed by this Court is hereby recalled and Writ Petition No.5636 of 2016 is restored to file.

Put up Writ Petition No.5636 of 2016 for admission before the appropriate Bench.

(Arun D. Upadhye, J.)

(R.K. Deshpande, J.)