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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD**

923 WRIT PETITION NO.1470 OF 2018

**JAISINH SHIVAJIRAO PANDIT  
VERSUS  
THE STATE OF MAHARASHTRA AND OTHERS**

...

Mr N. B. Khandare, Advocate for petitioner;  
Mr S. B. Yawalkar, A.G.P. for respondent Nos.1, 3 & 4;  
Mr A. M. Gaikwad, Advocate for respondent No.2

**CORAM : RAVINDRA V. GHUGE  
AND  
S. G. MEHARE, JJ.**

**DATE : 27th July, 2021**

**PER COURT:**

1. We have heard the learned Advocates for the petitioner and respondent No.2 and the learned A.G.P. on behalf of respondent Nos.1, 3 and 4.

2. By this petition, the petitioner has put forth prayer clauses (A) and (B) as under :

*“A) The Hon’ble High Court may hold and declare that the land survey no.214/A admeasuring to the extent of 4722 Sq.m. and land survey no.215/A to the extent of 6600 Sq.m. situated at Georai of district Beed within the Municipal*

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*limits of Georai stand released from the development plan as reservation has been lapsed; with further declaration that petitioner is entitled to use the land notwithstanding the reservation.*

*B) By issue of Writ of Mandamus or directions in the nature of Writ of Mandamus or orders in the like nature respondent no.2 be directed to forward a proposal of lapsing of reservation nos. 33 and 35 to the respondent no.1 for publishing the same in the Government Gazette and respondent no.1 be directed to notify the lapse of reservation in the official Gazette.”*

3. There is no dispute as regards the following factors :

(a) That, the petitioner is an owner of land admeasuring 1 H 67 R, falling under Survey No.214/A and admeasuring 6600 Sq.Mtrs. falling under Survey No.215/A, both in Georai Taluka, Dist. Beed;

(b) That, the Draft Development Plan for Municipal Council, Georai was sanctioned by the Urban Development Department, Government of Maharashtra, on 31/12/1997;

(c) That, the sanctioned Development Plan came into force on 15/03/1998 and the land of the petitioner has been reserved by the said Development Plan, under reservation Nos.33 and 35;

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(d) That, a period of ten years from the sanction of the Development Plan has already passed away and no declaration under Section 126 (4) (2) of the Maharashtra Regional and Town Planning Act, 1966 (for short 'the MRTP Act') has been made;

(d) That, a No Objection Certificate for de-reservation of No. 33 has been given by respondent No.2 on 21/01/2015 and the said land has been released from reservation;

(e) That, the petitioner issued a notice dated 07/12/2015 under Section 127 of the MRTP Act to the Planning Authority, which has been received and duly acknowledged;

(f) That, the statutory period of 24 months as per the amended Section 127 of the MRTP Act has lapsed and no action has been initiated by the authorities;

(g) That, respondent No.2 – Municipal Council has stated in paragraphs 3 and 4 of it's affidavit-in-reply dated 19/09/2018 that the petitioner has purchased a part of the land which was

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under the Development Plan, when such Development Plan was already announced and such sale was prohibited.

4. The learned Advocate representing respondent No.2 – Acquiring Authority submits on instructions that after the notice dated 07/12/2015 under Section 127 of the MRTP Act was received by respondent No.2, no steps have been taken in the last six years.

5. In view of the fact situation as above and in the light of the judicial pronouncements in **Girnar Traders Vs. State of Maharashtra & others, (2007) 7 Supreme Court Cases 555** and **Girnar Traders (3) Vs. State of Maharashtra & others, (2011) 3 Supreme Court Cases 1**, this petition need not be kept pending. As respondent No.2 has not initiated any steps, this petition will have to be allowed.

6. As such, this petition is partly allowed in the terms of prayer clause (A) reproduced above.

7. We make it clear that we have not expressed any view as regards the contention of respondent No.2 that the petitioner has

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illegally purchased a portion of the land when it was under the Development Plan.

**(S. G. MEHARE, J.)**

**(RAVINDRA V. GHUGE, J.)**

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