

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

907 WRIT PETITION NO.4119 OF 2022

**KHURSHIDBEE ABDUL GAFFAR MALIK
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

...

Advocate for Petitioner : Mr.Syed Azizoddin R.
AGP for Respondents-State : Mr.S.G. Sangle & Mr.S.P.Tiwari
Advocate for Respondent No. 2 (Caveator) : Mr. V.D.Gunale

...

AND

908 WRIT PETITION NO.4120 OF 2022

**AMINABEE ABDUL WAHAB MALIK
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

...

Advocate for Petitioner : Syed Azizoddin R.
AGP for Respondents-State : Mr.S.G. Sangle & Mr.S.P.Tiwari
Advocate for Respondent No. 2 (Caveator) : Mr. V.D.Gunale

...

AND

909 WRIT PETITION NO.4121 OF 2022

**GAZALA PARVIN ABDUL SAYED MALIK
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

...

Advocate for Petitioner : Syed Azizoddin R.
AGP for Respondents-State : Mr.S.G. Sangle & Mr.S.P.Tiwari
Advocate for Respondent No. 2 (Caveator) : Mr. V.D.Gunale

...

AND

910 WRIT PETITION NO.4122 OF 2022

SHAMIMBEE ABDUL RAHIM MALIK

VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for Petitioner : Syed Azizoddin R.
AGP for Respondents-State : Mr.S.G. Sangle & Mr.S.P.Tiwari
Advocate for Respondent No. 2 (Caveator) : Mr. V.D.Gunale

...

CORAM : RAVINDRA V. GHUGE, &
ANIL L. PANSARE, JJ.

DATE : 29th JUNE, 2022

PER COURT :

1. In all these petitions, the petitioners are identically placed and have putforth prayer Clauses (C) and (D), which read as under :

(C) The Hon'ble High Court may be pleased to issue appropriate writ, order or direction and thereby declare that the land Survey No. 248/3B ad-measuring 61 R situated at Mehrun Shivar, Jalgaon Taluka & District Jalgaon (particularlly described in paragraph No. 4) is de-reserved and the same is free from any encumbrance of reservation more particularly as reserved in final development plan of Jalgaon as site No. 164 & 164 (Play Ground, Primary School and 15 Meter DP Road).

(D) The Hon'ble High Court be pleased to issue appropriate writ, order or direction in the nature of writ, and direct the respondents to notify the lapsing of reservation by publishing notification in Official Gazette under section 127 (2) of MRTP Act, forthwith in respect of de-reservation of land Survey No. 248/2B ad-measuring 61 situated at Mehrun Shivar, Jalgaon Taluka & District Jalgaon (particularly described in paragraph No. 3)"

2. We have considered the submissions of the learned Advocate representing the petitioners and the learned AGP and with their assistance we have gone through the petition paper book. We have referred to the law laid down by the Hon'ble Supreme Court in 1) **Balaji Associates through its Partners and Others Vs. The State of Maharashtra and Others (2019) 19 SCC 1**, 2) **M/S. Girnar Traders vs State Of Maharashtra & Ors. (2007) 7 SCC 555** and 3) **Shrirampur Municipal Council Shrirampur Vs. Satyabhamabai Bhimaji Dawkher and Others (2013) 5 SCC 627**.

3. It is undisputed that all these petitioners had issued notices dated 26.02.2019 to the respondent Municipal Corporation under Section 127 of the Maharashtra Regional and Town Planning Act, 1966. The Corporation received the said notice and renewed their request to the Government. An affidavit-in-reply has been filed by the Assistant Director of Town Planning dated 24.06.2022, in which it is contended that after notices were issued, the Corporation pursued the State Government. However, no steps have been taken by the Government. It is further pleaded in the affidavit that the law laid down by the Hon'ble Supreme Court in, **Balaji Associates** (supra), **M/S. Girnar Traders** (supra) and the **Shrirampur Municipal Council** (supra) is not applicable to these matters.

4. It is now well settled that the steps that are required to be initiated by the authorities to avoid the lapsing of the reservation, are prescribed under Section 126 of the M.R.T.P. Act. This being the crystallized position of law, it is obvious that the Corporation has not initiated any steps and the law laid down in Shrirampur Municipal Council (supra), Balaji Associates (supra) is clearly applicable.

5. In view of the above, this petition is allowed.

6. The Municipal Corporation, respondent No. 3 herein, shall submit a proposal in requisite format to respondent No. 1, on or before 30th July, 2022 and pursuant thereof, that respondent No. 1 shall issue a notification under Section 127 (2) of the MRTP Act, on or before 30th September, 2022.

(ANIL L. PANSARE)
JUDGE

(RAVINDRA V. GHUGE)
JUDGE