

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

**CONTEMPT PETITION NO.582 OF 2022 IN
WRIT PETITION NO.1981 OF 2016**

Govind s/o Bajirao Navpute ... **PETITIONER**

VERSUS

The State of Maharashtra & ors. ... **RESPONDENTS**

.....
Mr. D.P. Palodkar, Advocate for petitioner
Mr. A.R. Kale, A.G.P. for respondent No.1.
Mr. Sanjeev Deshpande, Senior Counsel for
respondents No.2 to 4
.....

**CORAM : R.G. AVACHAT AND
SANJAY A. DESHMUKH, JJ.**

Date of reserving order : 20th July, 2023

Date of pronouncing order : 3rd August, 2023

ORDER :

Heard. The petitioner had filed a Writ Petition, No.1981/2016 challenging the draft development plan of the city of Aurangabad, published on 4/2/2016. The Writ Petition was allowed on 5/8/2016. The notification dated 4/2/2016 published in the official gazette relating to the draft development plan was quashed and set aside. It was declared that the planning authority (Municipal Corporation) shall be deemed to have failed to perform the duty imposed

upon it by or under the provisions of the Maharashtra Regional and Town Planning Act (MRTP Act). The work remained to be done up to the stage of submission of draft development plan under Section 30, was directed to be completed by the concerned Divisional Joint Director or the Deputy Director of Town Planning and Valuation Department or an officer nominated by him not below the rank of Assistant Director of Town Planning. The said officer was directed to exercise all the powers and perform all the duties of planning authority which may be necessary for the purpose of preparing a development plan and submit it to the State Government for sanction.

2. The judgment and order passed in Writ Petition No.1981/2016 was challenged in Civil Appeal, No.2237/2020 and other connected appeals before the Supreme Court. The Hon'ble Supreme Court dismissed all those appeals and confirmed the order passed in the Writ Petition.

3. Since no steps towards compliance with the order passed in the Writ Petition were initiated, the present Contempt Petition has been filed.

4. Learned counsel for the petitioner would submit

that, in spite of a direction given vide judgment and order dated 5/8/2016 in Writ Petition No.1981/2016, the concerned authorities took steps inconsistent or in derogation of the said order. Our attention was drawn to a letter dated 15/1/2020 issued by the Under Secretary to the State of Maharashtra in the Ministry of Urban Development to the Commissioner of Aurangabad Municipal Corporation, asking for taking necessary steps for preparation of development plan of the old city of Aurangabad and newly added villages within its limits. Our attention was adverted to the order of this Court dated 27/4/2023.

5. Mr. Deshpande, learned Senior Counsel representing the respondents No.2 to 4 would, on the other hand, submit that the said letter was very much before the Hon'ble Supreme Court while it decided Civil Appeal No.2237/2020 and other connected appeals. The Apex Court has even referred the said letter in its judgment and order dated 17/4/2020. According to learned Senior Counsel, by virtue of principle of merger, the judgment and order passed in Writ Petition got merged with the judgment passed by the Apex Court. According to him, it was for the petitioner to approach the Apex Court for review of the judgment dated 17/4/2020, if necessary.

6. An affidavit-in-reply has been filed by the Principal Secretary, Urban Development Department, stating therein that the State Government has formed a separate Development Plan Special Unit for the said Development Plan of Aurangabad Municipal Corporation. The planning authority declared its intention to make combined development plan for original and extended area and limits of the Aurangabad Municipal Corporation. The State has invoked its powers under Section 154 of the MRTP Act. The order passed in the Writ Petition was limited to the preparation of development plan of the extended area. It is only in the interest of integrated planning, the State Government has directed Aurangabad Municipal Corporation for preparing development plan for both the areas.

7. In our view, the State Government directing the Aurangabad Municipal Corporation to prepare development plan for both the area, original and extended one, is in breach of the order passed in the Writ Petition.

8. During hearing of this Contempt Petition, a proposal came up to the effect that, if the State Government appoints an officer under Section 21(4A) and/ or Section 162

of the MRTP Act within three weeks from today, the Development Plan, Special Unit appointed can submit its work carried out under Section 25 of the MRTP Act, 1966 to the said officer appointed. The said officer can thereafter publish the draft development plan under Section 26, inviting suggestions and objections and carry out further process up to its submission to the State Government under Section 30 of the MRTP Act. This will also save the work already done by the Special unit and implement the directions issued by this Court. The learned Senior Counsel, on instructions, submitted the State Government to have been in agreement with the said proposal. The Planning Unit shall submit its work done to the Officer appointed by the State Government, within three months.

9. In view of the above, we take it that the State Government has made a statement accepting the said proposal and undertakes to comply with the same. The contempt stands purged and the petition stands disposed of.

(SANJAY A. DESHMUKH, J.)

(R.G. AVACHAT, J.)

fmp/-