

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
NAGPUR BENCH : NAGPUR**

**WRIT PETITION (WP) NO.3598 of 2022**

Shri Gorakshan Sanstha, Akola  
Through its Secretary, Vijaykumar  
Shivshankarji Jani, Aged 62 years, Occ.-  
Business, R/o Gorakshan Road, Akola.

.... Petitioner

**// VERSUS //**

1. Akola Municipal Corporation, Akola  
Through its Commissioner, Akola Dist.  
Akola
  2. Government of Maharashtra  
Through its Secretary, Urban  
Development Department, Mantralaya,  
Mumbai-32
- ... Respondents

Shri R.L. Khapre, Sr. Advocate, a/b. Shri P.A. Deshpande, Advocate for the Petitioner  
Shri Anjan De, Advocate for the respondent No.1  
Shri Dharmadhikari, AGP for the Respondent No.2 - State

**CORAM : ANIL S. KILOR, J.  
DATED : 27.01.2023**

**ORAL JUDGMENT :**

1. Heard.
2. **Rule.** Rule made returnable forthwith. Heard finally by  
consent of the parties.

3. In the present petition, two impugned communications dated 22.11.2021 issued by the Town Planner, Akola Municipal Corporation, Akola, which were approved by the commissioner vide office note dated 27.09.2021, directing the petitioner-Sanstha to deposit development charges to the tune of Rs.15,22,048/- for Survey No.15 and Rs.82,53,942/- for Survey No.17/1, are under challenge.

4. The only ground raised in the writ petition is that, though hearing to the person concerned, is provided under Section 124E (2) of the *Maharashtra Regional and Town Planning Act, 1966*, without giving such opportunity of hearing, the impugned communications came to be passed.

5. It is submitted that the petitioner-Sanstha needs to be treated as orphanage and in that case, as per the notification dated 24.05.1993 issued by the Urban Development Department, Mantralaya, Mumbai, the exemption to the extent of 75% in the development charges is provided. Thus, in that event, the petitioner will have to pay at the most 25% towards development charges. However, as the hearing was not granted, the above referred Government Notification and the status of the petitioner could not be pointed out to the authority.

6. Shri De, learned counsel for the respondent No.1-Corporation, is not disputing that the hearing was not granted to the petitioner. In the circumstances, without going into the merit of the matter and keeping all the points open, I am of the opinion that the matter needs to be remanded back to the Administrator, Akola Municipal Corporation, Akola, by accepting an undertaking of the petitioner that the petitioner will deposit 25% of the development charges mentioned in both impugned communications before the date on hearing. Accordingly, I pass the following order:

(i) The petition is **partly allowed**.

(ii) The impugned communications dated 22.11.2021 issued by the Town Planner, Akola Municipal Corporation, Akola and confirmed by the Municipal Commissioner vide office note dated 27.09.2021, are hereby quashed and set aside.

(iii) The matter is remanded back to the Administrator, Akola Municipal Corporation, Akola, to decide the issue as regards the development charges afresh, after hearing the petitioner.

(iv) The petitioner shall appear before the Administrator, Akola Municipal Corporation, Akola on 10.02.2023 at 11.00 a.m. and in the meantime, petitioner shall deposit 25 % of the

amount of Rs.15,22,048/- and Rs.82,53,942/- as development charges with Akola Municipal Corporation, Akola. The amount already deposited shall be adjusted accordingly.

The petition is **disposed of** accordingly.

[ANIL S. KILOR, J.]