

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

WRIT PETITION NO. 1111/2023

Ashish S/o Rameshro Belorkar, age 52 years,
Occ: Business, R/o Flat No.1001, 10th Floor,
Plot No.57, Kanchan-Geet Apartment, Shivaji
Nagar, Nagpur – 444 010. Power of Attorney Holder of

1. Manda Jayprakash Bhisey, age 72 years,
Occupation – Household.
2. Ajinkya Jayprakash Bhisey, age 32 years,
Occupation : Agriculturist.
3. Usha Manohar Ingole, Age 77 years,
Occupation : Household.
4. Sandhya Rameshwar Tayade, Age 66 years,
Occupation : Household.
5. Rekha Anil Salway, age 66 years,
Occupation : Household.

All Pet.no.1 to 5 R/o Tayade, Badi Sabji Mandi,
Behind District Co-operative Bank, Wardha-442001.

PETITIONERS

.....VERSUS.....

1. The State of Maharashtra, Through the Secretary,
Urban Development Department,
Mantralaya, Mumbai.
2. The Director of Town Planning,
State of Maharashtra, Central Building, Pune-1.
3. Assistant Director of Town Planner Wardha, Town
Planning & Valuation Office, Wardha, Ambedkar
Chowk, Sawangi Road, Near Stadium, Wardha.
4. Municipal Council (M.C.)/Nagar Parishad Wardha,
through its Chief Officer at Wardha, Tq. Wardha,
Dist. Wardha.

RESPONDENTS

Shri G.K. Mundhada, counsel for the petitioners.
Shri A.S. Fulzele, Additional Government Pleader for the respondent nos.1 to 3.
Shri M.I. Dhatrak, counsel for the respondent no.4.

CORAM : A. S. CHANDURKAR AND M.W. CHANDWANI, JJ.

DATE : APRIL 12, 2023.

ORAL JUDGMENT : (PER : A.S. CHANDURKAR, J.)

RULE. Rule made returnable forthwith and heard the learned
counsel for the parties.

2. The petitioners are the owners of land bearing Survey No. 38 admeasuring 3 Hectare 24 R of village Borgaon (Meghe), Taluka and District Wardha. The aforesaid land was shown in the development plan as reserved for playground *vide* reservation no.21. The petitioners issued notice under Section 127 of the Maharashtra Regional and Town Planning Act, 1966 (for short, 'the Act of 1966') on 01.02.2021 which was served on the Municipal Council – Planning Authority on 05.02.2021. Since no steps were taken within a period of twenty four months of receipt of such notice, the petitioners have sought a declaration as regards lapsing of the reservation.

3. Heard the learned counsel for the parties and perused the documents on record. The service of notice under Section 127 of the Act of 1966 is not disputed by the Municipal Council. It has relied upon the communication dated 02.02.2023 issued to the Collector seeking steps to be taken for acquiring the said land. Except this communication which can be termed as a step for acquisition and not as a step of acquisition, nothing has been done as required by Section 127(1) of the Act of 1966 to save the reservation. Legal position in this regard is well settled and reference can be usefully made to the decisions in *Laxmikant & Others Versus State of Maharashtra & Others* [(2022) 7 SCC 252], *Abdul Gani N Wadwan Versus State of Maharashtra & Others* [2018 (4) Mh.L.J. 454] and *Jayantilal Himmatlal Oswal Versus State of Maharashtra, Director of Town Planning, Pune* [2021 (3) ALL MR 579].

4. In view of aforesaid, it is clear that for absence of necessary steps to acquire the land in question, reservation is deemed to have lapsed. Accordingly, it is declared that reservation no.21 affecting land bearing Survey No.38 to the extent it was reserved for playground stands lapsed and released from reservation under Section 127(1) of the Act of 1966. The respondent no.1 shall within a period of eight weeks from today issue notification contemplated by Section 127(2) of the Act of 1966. The petitioners are free to develop the land as otherwise permissible in case of adjacent lands under the relevant plan.

5. The writ petition is disposed of in aforesaid terms. Rule accordingly. No costs.

(M.W. CHANDWANI, J.)

(A.S. CHANDURKAR, J.)

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