



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 2436 OF 2024

1. Vishal Shekhar Kolhe
Age : 44 years, Occu: Agri.
2. Milind Shekhar Kolhe
Age : 41 years, Occu: Agriculturist
3. Kalpana Shekhar Kolhe
Age : 60 years, Occu: Housewife
4. Vaibhav Dhanraj Kolhe
Age : 30 years, Occu: Service
R/o. Plot No. 17, Ramchandra Nagar,
Jalgaon, Tq. & Dist. Jalgaon
5. Khemraj Arjun Kolhe
Age : 63 years, Occu: Pensioner
R/o. S. No. 40/B1, Plot No.2,
Ayodhya Nagar, Nr. Shriram Temple
Jalgaon, Tq. & Dist. Jalgaon

...Petitioners

VERSUS

1. State of Maharashtra
Through its Secretary of Urban Development
Department, Mantralaya, Mumbai
2. Collector, Jalgaon
Jalgaon, Tq. & Dist. Jalgaon
3. Assistant Director
Town Planning Department, Jalgaon
4. Jalgaon Municipal Corporation, Jalgaon
Through its Commissioner,
Nehru Chow, Jalgaon

...Respondents

Mr. A. R. Syed, Advocate for the Petitioners
Mr. A. B. Girase, GP for Respondent Nos.1 and 2/State
Mr. S. B. Munde, Advocate for Respondent Nos. 3 and 4.

CORAM : RAVINDRA V. GHUGE AND
R. M. JOSHI, JJ.

DATE : 18th MARCH, 2024

ORAL JUDGMENT (PER RAVINDRA V. GHUGE, J) :-

1. **Rule.** Rule made returnable forthwith. Heard finally by consent of parties.
2. By this Petition, the Petitioners have put-forth prayer clauses [C] and [D] 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. 424/4/1+2+3 admeasuring 75 R situated at Jalgaon Taluka & District Jalgaon, is de-reserved and the same is free from any encumbrance of reservation more particularly as reserved in final development plan of Jalgaon as reservation No. 19 (High School).

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. 424/4/1+2+3 admeasuring 75 R situated at Jalgaon Taluka & District Jalgaon."

3. While issuing notice on 4th March, 2024, this Court has recorded the contention of the Petitioners that they have issued a purchase notice. TDR is offered by Respondent No.4. Petitioners have refused to accept the TDR. Two years have lapsed after the service of the purchase notice.

4. The law on this count is settled in *M/S. Girnar Traders vs State Of Maharashtra & Ors, AIR (2007) SC 3180*. The learned Advocate for the Municipal Corporation submits that TDR was offered. The Petitioner has refused to accept the TDR. This issue is now no longer *res integra* in the light of *Shree Vinayak Builders and Developers Vs. State of Maharashtra and Others, (2022) 6 Bom CR 410 (FB)*.

5. Keeping in view the averments of the parties, it is obvious that the Municipal Corporation has not initiated any steps within a period of two years after receiving the purchase notice under Section 127 of the Act, as is mandated by the law laid down in *M/s. Girnar Traders* (supra).

6. In view of above, this Writ Petition is allowed in terms of prayer clauses 'C' and 'D'. The Corporation shall forward a communication to the Respondent No. 1, within 30 days from today, declaring that the land is released from reservation. Thereafter, Respondent No. 1 shall issue a notification for lapsing of the reservation within 60 days.

7. Rule is made absolute in the above terms.

(R. M. JOSHI, J.)

(RAVINDRA V. GHUGE, J.)

ssp