



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 14044 OF 2021

Harish Namdeo Phalak,
Age: 59 years, Occu.: Business,
R/o Puroshtum Nagar, Near Gayatri
Shakti Peeth, Tq. Bhusawal,
District Jalgaon.

... PETITIONER

V/s.

1. The State of Maharashtra,
Through its Principal Secretary,
Urban Development Department,
Mantralaya, Mumbai – 32.
2. The Principal Secretary
Town Planning Department,
Mantralaya - Mumbai-32.
3. The Director Town Planning
Central Building Pune.
4. Deputy Director of Town Planning,
Nashik Division, Nashik
5. Joint Director, Town Planning,
Jalgaon, District- Jalgaon.
6. The Chief Officer,
Municipal Council Bhusawal,
Taluka: Bhusawal, District Jalgaon.

... RESPONDENTS

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Mr. Vinod Patil, Advocate for the Petitioners
Mr. R.S. Wani, AGP for the Respondent-State
Mr. D.P. Palodkar h/f. N.R. Dayama, Advocate for the Respondent No.6

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CORAM : RAVINDRA V. GHUGE &
Y.G. KHOBRAGADE, JJ.

DATE : 19th August, 2024

ORAL JUDGMENT (Per: Ravindra V. Ghuge, J.):-

1. Rule. Rule made returnable forthwith and heard finally with the consent of the parties.

2. The Petitioner has put-forth prayer clause-B as under:

“B) This Hon'ble Court by way of appropriate writ, order or directions in the like nature, be pleased to direct the respondent authorities to take appropriate steps in accordance with law with the land survey no. 206/ plot no. 1 to 11 adm. 1324 sq. mts. situated at Bhusawal, and be pleased to hold and declare that, the land survey no. 206/ plot no. 1 to 11 situated at Bhusawal is lapsed from the reservation as per Development Plan site no. 87/A.”

3. The Petitioner is the owner of land bearing Survey No.206, ad-measuring 1324 sq.mtrs situated at Bhusawal, which are plot nos.1 to 11 under the second revised development plan dated 21.11.2005, which have been reserved for a Mangal Karyalaya. Earlier the reservation was for a Library, which was later converted for a Mangal Karyalaya. The procedure required to be followed for changing the reservation from a Library to a Mangal Karyalaya was followed and the said issue is not in dispute.

4. The second revised development plan was finalised on 21.11.2005 and was notified and brought into force w.e.f. 15.01.2006. The purchase notice under Section 127 of the M.R.T.P. Act dated 06.07.2018, was served on the Municipal Council. There is no dispute about receipt of the notice.

5. The learned advocate for the Municipal Council submits that the proposal for modification under Section 37 of the MRTP Act, had been forwarded to the State Government on 14.05.2008. Thereafter, there has been no development.

6. Considering the above and the law laid down by the Hon'ble Supreme Court in **M/s. Girnar Traders V/s. State of Maharashtra & Ors, 2007 SCC 3180**, it is obvious that no steps have been taken by the Municipal Council towards acquisition of the land shown under the reservation plan.

7. In view of the above, **this Writ Petition is allowed**. The Municipal Council shall ensure that the communication reaches the Respondent No.2 regarding lapsing of reservation, within 30 days from today. The Respondent No.2 shall issue a notification under Section 127 (2), within a period of 60 days from the date of receipt of the communication from the Municipal Council.

8. **Rule is made absolute in the above terms.**

9. Needless to state, if the Model Code of Conduct is introduced, the same would not be an impediment for the implementation of this order.

[Y.G. KHOBRADE, J.]

[RAVINDRA V. GHUGE, J.]