



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.9159 OF 2024

- 1) Lata Bhaskarrao Dabhade
Age 61 years, Occ. Household,
R/o Samruddhi Park, Mitmita,
Chhatrapati Sambhajnagar
- 2) Dipesh Ramesh Pingle
Age 40 years, Occ. Doctor,
R/o Samruddhi Park, Mitmita,
Chhatrapati Sambhajnagar
- 3) Sagar Vikram Nikam,
Age 30 years, Occ. Service,
R/o Samruddhi Park, Mitmita,
Chhatrapati Sambhajnagar
- 4) Kalpana Rajesh Tayde,
Age 53 years, Occ. Household,,
R/o Samruddhi Park, Mitmita,
Chhatrapati Sambhajnagar
- 5) Saurabh Vikram Nikam,
Age 34 years, Occ. Service,
R/o Samruddhi Park, Mitmita,
Chhatrapati Sambhajnagar
- 6) Sandipan Ankush Ingle,
Age 47 years, Occ. Service,,
R/o Samruddhi Park, Mitmita,
Chhatrapati Sambhajnagar
- 7) Suraj Darshan Suresh Sonawne
Age 34 years, Occ. Service,
R/o Samruddhi Park, Mitmita,
Chhatrapati Sambhajnagar

- 8) Anita Govind Sabanwar,
Age 49 years, Occ. Household,
R/o Samruddhi Park, Mitmita,
Chhatrapati Sambhajnagar
- 9) Sandip Subhash Dhotre,
Age 37 years, Occ. Service,
R/o Samruddhi Park, Mitmita,
Chhatrapati Sambhajnagar
- 10) Gokul Panjabrao Salunke,
Age 39 years, Occ. Agriculture,
R/o Samruddhi Park, Mitmita,
Chhatrapati Sambhajnagar
- 11) Komal Anand Pradhan,
Age 27 years, Occ. Household,
R/o Samruddhi Park, Mitmita,
Chhatrapati Sambhajnagar
- 12) Takshsheela Nagesh Surwase,
Age 37 years, Occ. Household,
R/o Samruddhi Park, Mitmita,
Chhatrapati Sambhajnagar
- 13) Nagesh Sudam Surwase,
Age 40 years, Occ. Service,
R/o Samruddhi Park, Mitmita,
Chhatrapati Sambhajnagar
At present Plot No.C-70, Nath nagar,
Opp. Taramati Bhavan, Aurangabad
- 14) Shivnand Balaji Kale,
age 33 years, Occ. Service,,
R/o Samruddhi Park, Mitmita,
Chhatrapati Sambhajnagar
- 15) Balaji Honaji Kale,
Age 42 years, Occ. Service,
R/o Samruddhi Park, Mitmita,
Chhatrapati Sambhajnagar
- 16) Ganesh Anna Jadhav,
Age 43 years, Occ. Service,

R/o Samruddhi Park, Mitmita,
Chhatrapati Sambhajanagar

- 17) Jyoti Ganesh Jadhav,
Age 37 years, Occ. Household,
R/o Samruddhi Park, Mitmita,
Chhatrapati Sambhajanagar
- 18) Prabhakar Kashinath Kathar,
Age 43 years, Occ. Service,
R/o Samruddhi Park, Mitmita,
Chhatrapati Sambhajanagar
- 19) Rekha Prabhakar Kathar,
age 33 years, Occ. Household,
R/o Samruddhi Park, Mitmita,
Chhatrapati Sambhajanagar
- 20) Babasaheb Narayan Shelke,
Age 44 years, Occ. Service,
R/o Samruddhi Park, Mitmita,
Chhatrapati Sambhajanagar
- 21) Vaishali Babasaheb Shelke,
Age 40 years, Occ. Household,
R/o Samruddhi Park, Mitmita,
Chhatrapati Sambhajanagar
- 22) Reshmlal Shamlal Patel,
Age 48 years, Occ. Service,
R/o Samruddhi Park, Mitmita,
Chhatrapati Sambhajanagar
- 23) Kaushalya Reshmlal Patel,
Age 37 years, Occ. Service,
R/o Samruddhi Park, Mitmita,
Chhatrapati Sambhajanagar
- 24) Dnyandeo Ghanshyam Dawande,
Age 37 years, Occ. Service,
R/o Samruddhi Park, Mitmita,
Chhatrapati Sambhajanagar
- 25) Nisha Dnyaneo Dawande

Age 27 years, Occ. Household,
R/o Samruddhi Park, Mitmita,
Chhatrapati Sambhajnagar

- 26) Dinesh Nanasaheb Pathare,
Age 39 years, Occ. Service,
R/o Samruddhi Park, Mitmita,
Chhatrapati Sambhajnagar
- 27) Rina Dinesh Pathare,
Age 40 years, Occ. Household,
R/o Samruddhi Park, Mitmita,
Chhatrapati Sambhajnagar
- 28) Shahadev Dashrath Barde,
Age 38 years, Occ. Service,
R/o Samruddhi Park, Mitmita,
Chhatrapati Sambhajnagar
- 29) Suwarna Shahadev Barde,
Age 30 years, Occ. Household,
R/o Samruddhi Park, Mitmita,
Chhatrapati Sambhajnagar
- 30) Ramesh Pandurang Sonawne,
Age 53 years, Occ. Service,
R/o Samruddhi Park, Mitmita,
Chhatrapati Sambhajnagar
- 31) Raghunath Punjaji Bodade,
Age 62 years, Occ. Service,
R/o Samruddhi Park, Mitmita,
Chhatrapati Sambhajnagar
- 32) Chandrakant Vilas Jadhav,
Age 33 years, Occ. Service,
R/o Samruddhi Park, Mitmita,
Chhatrapati Sambhajnagar
- 33) Sapna Sagar Aagle,
Age 30 years, Occ. Household,
R/o Samruddhi Park, Mitmita,
Chhatrapati Sambhajnagar

... Petitioners

VERSUS

- 1) The State of Maharashtra
Through its Secretary,
Department of Urban Development,
Mantralaya, Mumbai – 400 032

(Copy to be served on the Govt. Pleader,
High Court of Bombay,
Bench at Aurangabad
- 2) The Director of Town Planning,
Maharashtra State, Mumbai
- 3) The District Collector/ District Magistrate,
Chhatrapati Sambhajnagar
- 4) Municipal Corporation,
Chhatrapati Sambhajnagar
through its Commissioner
- 5) Appointed Officer, Draft Development
Plan, Chhatrapati Sambhajnagar
Tq. & Dist. Chhatrapati Sambhajnagar
... Respondents

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Shri Sachin Deshmukh, Advocate with
Shri Majit S. Shaikh, Advocate for Petitioners
Shri A.B. Girase, Govt. Pleader for respondents – State
Shri S.S. Tope, Advocate for respondent No.4

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**CORAM: DEVENDRA KUMAR UPADHYAYA, CJ. &
KISHORE C. SANT, J.**

DATE: 27th AUGUST, 2024.

ORAL JUDGMENT (PER : CHIEF JUSTICE)

Rule. Rule made returnable forthwith. With the
consent of learned counsel for the parties, the matter has

been taken up for final decision.

2. Heard Shri Sachin Deshmukh, learned counsel for the petitioners, Shri Girase, learned Government Pleader representing the State respondents and Shri Tope, learned counsel representing the Municipal Corporation, Chhatrapati Sambhajanagar.

3. A draft development plan under Section 26(1) of the Maharashtra Regional and Town Planning Act, 1966 (the Act for short) was published on 5/3/2024 inviting objections from citizens from general public. The said notice was published in the Government Gazette of State of Maharashtra on 7/3/2024. The planning authority accordingly proceeded further and constituted a planning committee with the prior approval of the Director, Town Planning of the State under Section 28(2) of the Act on 7/5/2024. The objections/representations were received to the draft development plan and the planning committee submitted its report to the appointed officer on 22/7/2024.

4. The matter was thereafter considered by the appointed officer who considered the documents provided by the Town Planning Department and other Departments of

Municipal Corporation and also the suggestions from the Municipal Corporation. The appointed officer also considered the public interest element involved for the existing and future need of the town, the report of Town Planning Committee along with objections received by the petitioners and others and made certain necessary modifications/changes in the draft development plan.

5. The State Government thereafter considered the entire matter and found it necessary to publish the modifications in the draft development plan for information to public as per the provisions of Section 28(4) of the Act. A resolution on 29/7/2024 has also been passed by the Planning Authority resolving therein to publish modification in the draft development plan and to submit the draft development plan, effecting modification to the State Government under Section 30 of the Act. By the notice dated 1/8/2024, the list of modifications has been published under Section 28(4) of the Act for information of the general public, which has been kept open for information to public at various offices such as the office of Commissioner and Administrator, Municipal Corporation, Joint Director, Town Planning, Deputy Collector, Town Planning and Assistant Director, Town

Planning. It has also been published on the official website of Chhatrapati Sambhajinagar.

6. Submission of the learned counsel for the petitioners is that before publishing the information in terms of requirement at Section 28(4) of the Act, the petitioners who is the owner of Gut No.154, in respect of which modification in the draft plan has been proposed, was not given any opportunity of personal hearing. However, what we find from the Scheme of the Act is that the Act does not envisage any personal hearing; rather in terms of the provisions contained in the second proviso appended to Section 31 of the Act, before sanctioning the draft development plan, the modification proposed to be made either by the State Government or submitted by the planning authority, which are further supposed to be approved by the State Government without any further change with respect to the draft development plan, Government shall publish a notice in the official gazette and also in at least two local newspapers, inviting objections and suggestions from citizens in respect of the proposed modification within a period of one month from the date of such notice.

7. Thus, once the State Government decides to take recourse to Section 31 of the Act, it is incumbent upon it to publish a notice as contemplated by the second proviso appended to Section 31 and therefore, we have no reason to believe that the State Government, before sanctioning the draft development plan, will not publish the said notice.

8. However, at this juncture, learned counsel for the petitioners states that, recourse to the second proviso appended to Section 31 of the Act has to be taken only if modification proposed to be made are of substantial nature with respect to the development plan and in the instant case, the Government may not take recourse to the said proviso by observing that the change proposed is not of a substantial nature.

9. The apprehension expressed by learned counsel for the petitioners does not appear to be without any basis for the reason that it is the petitioners' lands comprising in Gut No.154, which forms part of the proposed modification in the draft plan and hence, at least for the petitioners, any change in the draft plan will be of substantial nature.

10. For the aforesaid reasons, we dispose of the Writ

Petition with the direction that in case the State Government proceeds further to sanction the draft development plan, it shall take recourse to the second proviso appended to Section 31 and accordingly publish a notice inviting objections/ suggestions from the general public. We also provide that in case any such notice is published, the petitioners will be given opportunity to submit objections and/ or suggestions to the said notice.

11. With the aforesaid observations and directions, the Writ Petition is disposed of.

12. Rule is made absolute in aforesaid terms. There will be no order as to costs.

(KISHORE C. SANT, J.)

(CHIEF JUSTICE)

fmp/-