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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

938 WRIT PETITION NO. 10746 OF 2024

Ankit Kailash Agrawal

VERSUS

The State of Maharashtra Through Its Secretary and others

...

AND

945 WRIT PETITION NO. 10772 OF 2024

Nusrat Fatima Mohammad Sharif and another

VERSUS

The State of Maharashtra and others

...

AND

959 WRIT PETITION NO. 10811 OF 2024

Sanjay Baburaoji Chavan and others

VERSUS

The State of Maharashtra and others

...

AND

927 WRIT PETITION NO. 10735 OF 2024

Shaikh Sadique Mohd and others

VERSUS

The State of Maharashtra and others

...

AND

971 WRIT PETITION NO. 10824 OF 2024

Sayyad Ajazuddin Nawab Ahmed Maheuddin Nawab and others

VERSUS

The State of Maharashtra and others

...

Advocate for the Petitioner : Mr. Sachin S. Deshmukh, Majit S. Shaikh and Mr. Sandip R. Sapkal (in respective petitions)

AGPs for Respondents: Mr. N.D. Batule, Ms. Neha Kamble and Mr. N.S. Tekale (in respective petitions)

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**CORAM : RAVINDRA V. GHUGE AND
Y. G. KHOBRAGADE, JJ.
DATED : 1st OCTOBER, 2024.**

PER COURT :-

1. Heard the learned advocates for the respective sides.
2. We have perused the order passed by this Court (Coram: Devendra Kumar Upadhyaya, CJ. and Kishore C. Sant, J.) dated 27.8.2024, in Writ Petition No. 9159 of 2024, [**Lata Bhaskarrao Dabhade and others vs. The State of Maharashtra and others**], at Aurangabad. We have also perused the order passed by this Court on 18.09.2024, in Writ Petition No.10032 of 2024, [**Sachin Subhash Kuber vs. The Chief Secretary, Government of Maharashtra and others**].
3. In **Lata Bhaskarrao Dabhade and others**, this Court recorded in para Nos. 7 to 12, as under:-

"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."

4. In **Sachin Subhash Kuber**, this Court recorded that it is settled proposition of law, which need not be reiterated that the actions of State have to conform to the legal provisions. The statement of the learned A.G.P. that the objections of the Petitioners would be decided within six months, was recorded. The learned A.G.P. before us in these Petitions submits that now there is amendment and such objections have to be decided within 12 months.

5. The learned advocate for the Petitioners conveys that the provision under Section 31 of the Maharashtra Regional and Town Planning Act, 1966, a hearing to the objectors is contemplated. With this provision engrafted in the law, the State has to conform to such

provisions.

6. With the above observations and expecting the State Government to do the things expected to be done in a particular manner and not in any other manner, **these Writ Petitions are disposed off.**

(Y. G. KHOBRAGADE, J.)

(RAVINDRA V. GHUGE , J.)

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