

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.10085 OF 2023

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Dinesh Karsan Chheda & Ors.

..... Petitioners

Vs.

Maharashtra Industrial
Development Corporation and Anr.

..... Respondents

Mr. Manish V. Khadakban for the Petitioners

Mr. Akshay S. Karlekar I/b. Shreeyog Law Associates for
Respondent No.1 – MIDC.

Mr. P. P. Kakade, Government Pleader with Mr. O. A. Chandurkar,
Addl.GP and Mrs. R. A. Salunkhe, AGP for the State -
Respondent Nos.2 and 3

**CORAM: DEVENDRA KUMAR UPADHYAYA, CJ. &
ARIF S. DOCTOR, J.**

DATE : JANUARY 5, 2024

P.C.

1. Heard Mr. Manish Khadakban, learned Counsel representing the Petitioners, Mr. Akshay Karlekar, learned Counsel representing Respondent No.1 – MIDC and Mr. P. P. Kakade, Government Pleader, representing the State - Respondent Nos.2 and 3.

2. Rule.

Rule is made returnable forthwith.

By consent of the parties, taken up for final disposal.

3. By instituting this Petition under Article 226 of the Constitution of India, the Petitioners have challenged the validity of an order dated 15th July 2022 passed by the Regional Manager, Maharashtra Industrial Development Corporation (MIDC), Thane, whereby their Application dated 31st May 2022 for allotment of a plot of an area of 375 sq.mtr. on Priority Basis System for weighbridge activity, has been rejected.

4. Submission of the learned Counsel for the Petitioners is that the said rejection order dated 15th July 2022 is completely unlawful, as the only reason indicated in the impugned order is that as per the policy, the minimum area of a plot which can be allotted is 1200 sq.mtr., however, in past, the plots wherein area less than 1200 sq.mtr. have been allotted, and as such, the impugned order is discriminatory.

5. Shri Akshay Karlekar, learned Counsel representing Respondent No.1 opposing the prayers made in the Writ Petition, has stated that the Petitioners do not have any vested right for seeking any allotment of a plot contrary to the policy of the Corporation. It has been stated further that only instance cited in the Writ Petition, where plot having area less than 1200

sq.mtr. has been allotted, is the allotment letter dated 22nd June 2004 after the circular dated 5th March 2001 was issued by the Joint Chief Executive Officer, MIDC, Mumbai containing prescription that the minimum area of 1200 sq.mtr. of plot should be maintained, however, the Application made by the Petitioners is dated 31st May 2022 and after issuance of circular dated 21st March 2022, there has not been any other instance where any plot of an area less than 1200 sq.mtr. has been allotted.

6. Having heard learned Counsel for the parties and perused the records available before us on this Petition, we are unable to agree with the submissions made by the learned Counsel for the Petitioners. As per the circular dated 5th March 2001 issued by the Joint Chief Executive Officer of the MIDC, Mumbai, minimum area of a plot for allotment is 1200 sq.mtr. It appears that the said policy has been in continuance since long as is apparent from the circular dated 21st March 2022 which makes a mention of earlier circulars dated 26th April 2006, 27th December 2007 and 26th August 2018. As per the said circular dated 21st March 2022, the Corporation had resolved that Applications shall be invited for allotment through Priority Basis System for

weighbridge activity for an area of 1200 sq.mtr. as per the Development Control Regulations (DCR) of the Corporation. Citing the reason that since the minimum area of a plot for weighbridge activity which can be allotted through Priority Basis System is 1200 sq.mtr., whereas the demand of the Petitioners is for a plot admeasuring 375 sq.mtr., the impugned order dated 15th July 2022 has been passed rejecting the prayer of the Petitioners.

7. We do not see any illegality in the said order for two reasons. Firstly, any direction sought by the Petitioners to be issued by this Court which runs contrary to the policy of the Corporation, in our opinion, will be impermissible and secondly, there is no challenge to the policy which prescribes that for weighbridge activity, the minimum area of a plot shall be not less than 1200 sq.mtr. So far as the submission made by the learned Counsel representing the Petitioners about the impugned action being discriminatory is concerned, the Petitioners have not been able to cite any example where any plot for weighbridge activity has been allotted after issuance of circular dated 21st March 2022, which admeasures less than 1200 sq.mtr. Further, so far as the allotment letter dated 22nd June 2004 is concerned, a

perusal of the same shows that the said allotment of a plot admeasuring 430 sq.mtr. was not made for weighbridge activity but for the proposed Chemical Unit. The policy decision cited in the impugned order dated 15th July 2022, as is apparent from the circular dated 21st March 2022, is in respect of the weighbridge activity, where as per the decision of the Corporation the plot area cannot be less than 1200 sq.mtr.

8. For the aforesaid reasons, we do not find any good ground to interfere with the impugned order. Hence, the Writ Petition is dismissed.

9. Rule is discharged. There will be no order as to costs.

(ARIF S. DOCTOR, J.)

(CHIEF JUSTICE)