



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
936 WRIT PETITION NO. 2724 OF 2025

MS NIKI AGRO PRODUCTS PVT LTD
THROUGH ITS AUTHORISED PERSON
VIMAL MANKICHAN CHORDIYA

VERSUS

THE STATE OF MAHARASHTRA
THROUGH ITS SECRETARY AND TOHERS

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Advocate for Petitioner : Mr. V.D.Sapkal Senior Counsel I/by. Mr. Patil Mangesh G.

AGP for Respondent/State : Mr. S.P. Sonpawale

Advocate for Respondent No.5 : Mr. S.S.Deve

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CORAM : MANISH PITALE AND
Y. G. KHOBRAGADE, JJ.

DATE : 09.09.2025

PER COURT :

. Heard learned counsel for the petitioner, as also learned AGP for the contesting Respondent Nos.2 to 5 i.e. the officers and the authorities of the Maharashtra Industrial Development Corporation (in short '**M.I.D.C.**').

2. The petitioner is aggrieved by a communication dated 27.01.2025 issued by the Respondent/M.I.D.C, rejecting application filed by the petitioner for permission to sell and transfer the plot of land allotted to the petitioner. The ostensible ground on which the permission was rejected, was a specific condition incorporated in the allotment order dated 26.07.2021, to the effect that the plot should not be transferred up to five years.

3. Learned Senior Counsel appearing for the petitioner contended that such a condition incorporated in the allotment order, does not find mention in any of the circulars issued by the M.I.D.C itself concerning the guidelines for allotment of such plots of land. Therefore, Respondent/ M.I.D.C could not have insisted on imposing such a condition in the allotment order dated 26.07.2021, whereby the subject plot was allotted to the petitioner. It was submitted that the petitioner has been consistently pursuing the matter for relaxation of said special condition from the year 2021 on-wards and last such application was made on 21.03.2024.

4. By referring to the reply-affidavit placed on record, on behalf of M.I.D.C, it was submitted on behalf of the petitioner, that the Respondent / M.I.D.C has taken a bold stand in paragraph No.10 of the reply affidavit, that such policy of insisting upon the aforementioned special condition was being applied uniformly to all the parties who have been allotted plots in terms of such a decision dated 02.02.2021, taken by the Land Allotment Committee (**L.A.C.**) of the Respondent/MIDC.

5. In response thereto, alongwith rejoinder affidavit, the petitioner has placed on record a series of orders which show that while such a special condition was indeed incorporated in the case of other allottees but upon applications filed on their behalf for relaxation of the said special condition, respondent/M.I.D.C has

promptly granted such relaxation, thereby showing discriminatory treatment meted out to the petitioner and the fallacious stand taken on behalf of the Respondent/M.I.D.C in paragraph No.10 of reply affidavit filed in the present petition. It was further brought to the notice of this Court in terms of another special condition incorporated in the allotment order, the petitioner had indeed completed construction on the plot and its establishment had gone into production, which is evident from a communication issued by one of the officers of Respondent/ M.I.D.C on 23.08.2024. It was submitted that since the petitioner has excess land, it intended to dispose of part of the same, which ought to have been permitted in the light of the manner in which the Respondent/ M.I.D.C had treated similarly situated parties to sell and transfer plots of land. On this basis, it was submitted that the petition be allowed.

6. On the other hand, learned counsel appearing for the contesting Respondent/ M.I.D.C submitted that the incorporation of the said special condition was well within the powers vested in the M.I.D.C and its L.A.C. It was submitted that Section 14 of the M.I.D.C Act, 1961, empowers the M.I.D.C, to regulate allotment of plots in industrial areas and it is with the intention of preventing speculative investments being made by parties like the petitioner, that the aforesaid special condition of not permitting transfer of plots within five years of allotment, was adopted. It was submitted that the object with which the said special condition was incorporated, would stand frustrated, if this Court allows the present petition.

In respect of the documents placed on record alongwith rejoinder affidavit, learned counsel appearing for the M.I.D.C could not dispute the said documents.

7. Having considered the rival submissions, this Court is of the opinion that the petitioner has been able to make out a case for granting relief in the present petition. The record indeed shows that the circulars issued by the Respondent/ M.I.D.C itself are referred to paragraph No.7 of reply-affidavit pertaining to guidelines of allotment of such industrial plots, which does not show incorporation of such a special condition, that is the subject matter of controversy in the present writ petition. Yet, it is contended on behalf of Respondent/ M.I.D.C that its L.A.C, can certainly impose such a special condition, superseding its own circulars in the light of tendency of parties to invest in industrial plots, only with a view to sell them when the land prices increase, with the passage of time. The whole purpose of allotment of such industrial plots, is to ensure that industries are encouraged and industrial growth ultimately leads to generating employment.

8. While the object and intention, sought to be demonstrated on behalf of the M.I.D.C can not be found fault with, but if such a policy was consciously adopted by the L.A.C of M.I.D.C, as per its decision dated 02.02.2021, it ought to have been implemented uniformly with regard to all the allottees of such industrial plots. In fact, in paragraph No.10 of the reply-affidavit, the M.I.D.C has taken a

specific stand to the effect that the aforesaid policy incorporating the special condition was applied uniformly to all allottees and that the source of power for insisting upon such a special condition, was identified in Section 14 of the M.I.D.C Act, 1961.

9. But, the aforesaid bold stand taken on behalf of the Respondent/ M.I.D.C in paragraph No.10 of reply-affidavit is falsified by the documents placed on record on behalf of the petitioner alongwith the rejoinder affidavit. The said documents placed on record show a series of orders passed by the Respondent/ M.I.D.C, wherein such a condition was not incorporated as also a series of orders wherein, though such a special condition was incorporated, within the said period of five years, the Respondent/ M.I.D.C granted relaxation to such allottees, upon their submitting applications.

10. By way of illustration, we find that by allotment order dated 30.07.2021, Respondent/ M.I.D.C allotted a plot to a particular party, incorporating the aforementioned special condition to the effect that the plot should not be transferred up to five years. But, within less than one year, i.e on 29.07.2022, Respondent/ M.I.D.C granted relaxation of the said condition, by consenting to transfer of the very same plot allotted to said party. The further documents on record show that such relaxation was granted to such allottees whereby they could transfer their plots within a period of five years, despite incorporation of the said special condition in their allotment orders also.

11. These documents clearly show that the Respondent/ M.I.D.C has not lived up to its stand taken in paragraph No.10 of reply-affidavit and that the said policy of incorporating the said special condition, has not been applied uniformly to similarly / identically situated allottees, as the petitioner.

12. The petitioner has been able to make out a case, to claim that it has been discriminated against and treated differently by the Respondent/M.I.D.C. The aforesaid conduct of the Respondent/ M.I.D.C makes out a case of arbitrariness and as arbitrariness is antithesis of Article 14 of the Constitution of India, we are inclined to hold in favour of the petitioner.

13. In view of the above, the impugned communication dated 27.01.2025, issued by the Respondent/ M.I.D.C is quashed and set-aside and it is directed that the petitioner shall be granted relaxation of special condition No.4, incorporated in the allotment order dated 26.07.2021.

14. The Writ Petition stands allowed in above terms.

15. Pending applications, if any, also stand disposed of.

(Y. G. KHOBRAGADE, J.)

(MANISH PITALE, J.)

vsj..