

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

WRIT PETITION NO.5773 OF 2008

Bilcare Limiyrf

....Petitioner

versus

State of Maharashtra & Ors.

....Respondents

WITH

WRIT PETITION NO.4618 OF 2025

Anax Industries Private Limited & Anr.

....Petitioners

versus

State of Maharashtra & Ors.

....Respondents

Mr. G.S. Godbole, Senior Advocate with Mr. Abhishek Kothari, Mr. Parag Kabadi and Ms. Drishti Gudhaka i/b M/s. DSK Legal, *for the Petitioners in both Petitions.*

Mr. O.A. Chandurkar, Additional GP with Ms. G.R. Raghuwanshi, AGP *for Respondent Nos.1, 4 and 5 in WP 5773 of 2008 and for Respondent Nos.1, 3, 4 and 5 in WP 4618 of 2025.*

Mrs. Shehnaz V. Bharucha i/b Mr. A.A. Ansari, *for Respondent No.2-UOI in WP 5773 of 2008.*

Mr. Ashwin Kulkarni with Ms. Shyamali Gadre i/b M/s. Little & Co. *for MIDC/Respondent No.3 in WP 5773 of 2008.*

Mr. Ashish Gabhale with Ms. Shraddha Dubepatil i/b M/s. Jay & Co. *for Respondent No.2 in WP 4618 of 2025.*

**CORAM: ALOK ARADHE, CJ. &
SANDEEP V. MARNE, J.**

DATE : 18 AUGUST 2025.

P.C.:

1. In Writ Petition No.5773 of 2008, the Petitioner has sought the following reliefs:

- “(a) That this Hon'ble Court be pleased to issue any appropriate writ, order or direction as follows:
- (i) That this Hon'ble Court be pleased to hold and declare that the decision and the entire action of the State Government of establishing International Airport on the suit land is without legislative and executive competence and further it is ultra-vires, contrary to provisions of SEZ Act, illegal, null and void and liable to be set aside and accordingly be set aside.
 - (ii) That this Hon'ble Court further be pleased to hold and declare that once the SEZ is approved by the Central Government, then the recommendation granted by the State Government cannot be withdrawn and the State Government is bound by the recommendation as the Central Government has acted upon the same and granted the approval.
 - (iii) That this Hon'ble Court be pleased to hold and declare that the entire action of the State Government of applying provisions of MIDC Act for the purpose of establishing and constituting an International Airport upon the suit land by withdrawing the recommendation granted for SEZ proposal upon the suit land, is without authority of law, inconsistent and repugnant to the provisions of SEZ Act, illegal, null and void and liable to be quashed and set aside and accordingly, be set aside.
 - (iv) That this Hon'ble Court be pleased to hold and declare that the impugned order dated 18.06.2008 of withdrawal of recommendation of SEZ Proposal and Order dated 11.07.2008 purportedly passed under Section 32(2) of MIDC Act rejecting the representations of the Petitioners preferred u/s. 1(3) of MIDC Act is ex-facie illegal, arbitrary,

unreasonable, contrary to law, ultra-vires, without authority of law and further the State Government is estopped from taking any action contrary thereto;

- (v) The impugned notification dated 28.09.2007 bearing No. IDC 2007/(733)/IND-4 at Exhibit H in respect of the suit land be kindly quashed and set aside.
 - (vi) That this Hon'ble Court be pleased to quash and set aside the impugned order dated 18.06.2008 of withdrawal of recommendation of SEZ Proposal and Order dated 11.07.2008 purportedly passed under Section 32(2) of MIDC Act rejecting the representations of the Petitioners preferred w/s. 1(3) of MIDC Act.
 - (vii) To direct the Respondent State Government to issue the No Encumbrances Certificate and comply with all other formalities under Rule 7 framed under Section 56 of Special Economic Zone Act, 2005 forthwith.
 - (viii) That this Hon'ble Court further be pleased to direct the Respondents to complete further formalities under the Special Economic Zone Act, 2005 and to grant all further permissions, orders, etc. in respect of the suit land enabling the Petitioner to execute the SEZ Project duly approved by Respondent No.2 vide their letter dated 19.06.2007 at Exh.C
- (a-1) Without prejudice to prayer clause (a) above, this Hon'ble Court be pleased to:
- (i) issue a writ of mandamus, or a writ in the nature of mandamus or any other appropriate writ, order or direction, directing Respondent No. 1 to forthwith issue a notification in accordance with the first proviso to Section 1 of the MIDC Act as also the resolution passed by the High Power Committee of the Respondent No. 1 taken in the 166th meeting as communicated by letter dated October 15, 2024 addressed by the Under Secretary of the Respondent No.1 to the C.E.O. of MIDC, [Exhibit "LL" to this Petition] thereby de-notifying the applicability of Chapter VI of the MIDC Act to the suit land and un-reserving the same as an

"industrial area" as contemplated under Section 2(g) of the MIDC Act;

- (ii) to issue an appropriate Writ, Order or Direction in the nature of mandamus and/or prohibition thereby directing the Respondent Nos. 4 to 6 not to initiate any action adverse to the Petitioner Nos. 1 and 4 by exercising power under section 63-1A of the MTAL Act, 1948 on account of the impossibility of setting up an Industry due to existence of the MIDC Notification dated September 28, 2007 under section 1 (3) of the MIDC Act;"
- (b) Pending the hearing and final disposal of the above said Writ Petition, Respondents their agents, servants or anybody claiming through them be restrained by way of temporary injunction from disturbing the Petitioner's peaceful possession of the suit land, more particularly described in para 3.
- (c) Pending the hearing and final disposal of the above said Writ Petition, the execution, operation and/or effect of the impugned notification dated 28.09.2007 bearing No. IDC 2007/(733)/IND-4 at Exh H and the impugned order dated 18.06.2008 of withdrawal of recommendation of SEZ Proposal and Order dated 11.07.2008 purportedly passed under Section 32(2) of MIDC Act rejecting the representations of the Petitioners preferred u/s. 1(3) of MIDC Act, be kindly stayed.
- (d) Pending the hearing and final disposal of the above said Writ Petition, the Respondents be directed to complete the formalities of the SEZ and further the Petitioner be permitted to execute the said project.
- (d-1) Pending hearing and final disposal of the present Petition, this Hon'ble Court be pleased to
 - (i) issue mandatory interim orders or directions thereby directing Respondent No.1 herein to forthwith a notification in accordance with the first proviso to Section 1 of the MIDC Act as also the resolution passed by the empowered High Power Committee of the Respondent No.1 taken in the 166th meeting as communicated by letter

dated October 15, 2024 addressed by the Under Secretary of the Respondent No.1 to the C.E.O. of MIDC, [Exhibit "LL" to the Petition] thereby de-notifying the applicability of Chapter VI of the MIDC Act to the suit land and un-reserving the same as an "industrial area" as contemplated under Section 2(g) of the MIDC Act;

- (ii) issue appropriate prohibitory orders/directions thereby directing the Respondent No. 4 the Dist. Collector, Pune, Respondent No. 5 the Tahsildar Taluka Khed, Pune and Respondent No.6 the S.D.O., Khed Subdivision, Pune not to initiate any action adverse to the Petitioner Nos. 1 and 4 by exercising power u/s 63-1A of the MTAL Act, 1948 on account of the impossibility of setting up an Industry due to existence of the MIDC Notification dated September 28, 2007 u/s 1 (3) of the MIDC Act;"
- (e) Ad-interim reliefs in terms of prayer clause (b) (c) and (d) and (d-1) above.
- (f) Such other just and equitable order in the facts and circumstances of this case be passed in favour of the Petitioners.
- (g) This Hon'ble Court be pleased to grant costs to the Petitioners"

2. In Writ Petition No.4618 of 2025, the Petitioner has prayed for the following reliefs:

- A) This Hon'ble Court be pleased to issue a writ of mandamus, or a writ in the nature of mandamus or any other appropriate writ, order or direction, directing Respondent No. 1 to forthwith issue a notification in accordance with the first proviso to Section 1 of the MID Act as also the resolution passed by the High Power Committee of the Respondent No.1 taken in the 166th meeting as communicated by letter dated October 15, 2024 addressed by the Under Secretary of the Respondent No.1 to the C.E.O. of MIDC, [Exhibit LL to this Petition] thereby de-notifying the applicability of Chapter VI of the MID Act to the Land [described in Exhibit A to the Petition] and un-reserving the same as an "industrial area" as contemplated under Section 2(g) of the MID Act;

- B) This Hon'ble Court may be pleased to issue an appropriate Writ, Order or Direction in the nature of mandamus and/or prohibition thereby directing the Respondent Nos. 3 to 5 not to initiate any action adverse to the Petitioner Nos. 1 and 4 by exercising power under section 63-1A of the MTAL Act, 1948 on account of the impossibility of setting up an Industry due to existence of the MIDC Notification dated September 28, 2007 under section 1 (3) of the MID Act;
- C) Pending hearing and final disposal of the present Petition, this Hon'ble Court be pleased to issue mandatory interim orders or directions thereby directing Respondent No.1 herein to forthwith issue a notification in accordance with the first proviso to Section 1 of the MID Act as also the resolution passed by the empowered High Power Committee of the Respondent No. 1 taken in the 166th meeting as communicated by letter dated October 15, 2024 addressed by the Under Secretary of the Respondent No.1 to the C.E.O. of MIDC, [Exhibit LL to the Petition] thereby de-notifying the applicability of Chapter VI of the MID Act to the Land and un-reserving the same as an "*industrial area*" as contemplated under Section 2(g) of the MID Act;
- D) Pending the hearing and final disposal of the present Writ Petition, this Hon'ble Court be pleased to issue appropriate prohibitory orders/directions thereby directing the Respondent No. 3 the Dist. Collector, Pune, Respondent No.4 the S.D.O., Khed Subdivision, Pune and Respondent No. 5 the Tahsildar Taluka Khed not to initiate any action adverse to the Petitioner Nos.1 and 4 by exercising power u/s 63-1A of the MTAL Act, 1948 on account of the impossibility of setting up an Industry due to existence of the MIDC Notification dated September 28, 2007 u/s 1(3) of the MID Act;
- E) ad-interim reliefs in terms of prayer clauses (C) and (D) above be granted.
- F) this Hon'ble Court be pleased to grant such further and other reliefs as deemed fit in the facts and circumstances of the present case; and
- G) costs be granted to the Petitioners"

3. The principal grievance of the Petitioners is in relation to land bearing Gat Nos.321 and 322 situate at Pimpri,as well as Gat No. 840 situated at Vasuli which the Petitioner had acquired *bonafide* for industry use under Section 63(1-A) of the Maharashtra Tenancy and Agricultural Lands Act, 1948 (**MTAL Act**). In respect of the subject land, the State Government had decided to acquire the land under the Maharashtra Industrial Development Corporation Act, 1961 (**MIDC Act**) for setting up an airport through Maharashtra Industrial Development Corporation (**MIDC**) by notifying the dates under Section 1(3) followed by the Government recommendation on 18 June 2008 and rejecting the representation of the Petitioner for exclusion of its land from the purview of MIDC Act.

4. During the pendency of Writ Petition No.5773 of 2008, the High Power Committee of the State chaired by Principal Secretary (Industry) in its 166th meeting decided to denotify the land of the Petitioner. The Regional Manager, MIDC, Pune vide communication dated 29 October 2024 forwarded the draft of Notification to be issued for de-notifying the land under Section 32 of the MIDC Act to the Manager (Land Acquisition, MIDC).

5. In view of aforesaid subsequent development, learned Senior Advocate for the Petitioner submitted that the issue is pending for consideration of the State Government since October 2024 therefore a direction to be issued to issue a notification in terms of the decision taken by High Power Committee in a time bound manner.

It is further submitted that the Petitioner at this point of time does not intend to press prayer clause (b) in Writ Petition No.4618 of 2025 and seeks liberty to file a fresh Petition if and when the occasion arises.

6. On the other hand, the learned AGP submits that the suitable decision with regard to issuance of the notification shall be taken in a time bound manner.

7. In view of aforesaid submissions and in the facts and circumstances of the case as well as bearing in mind the decision taken by High Power Committee of the State chaired by Principal Secretary (Industry), we deem it appropriate to direct the State Government to issue the notification in terms of Section 32 of the MIDC Act within a period of four weeks from today. All contentions are kept open. The Writ Petitions are disposed of with liberty to the Petitioners to file a fresh Petition in respect of prayer clause (b) if occasion so arises. With the aforesaid liberty, the Writ Petitions are disposed of.

(SANDEEP V. MARNE, J.)

(CHIEF JUSTICE)