

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.6678 OF 2024

Tanvir Kudus Mirza and anr.

..vs..

State of Maharashtra and ors.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri G.K. Mundhada, Advocate with Ms. M.N. Dongre, Advocate
for the petitioners.

Shri P.P. Pendke, Assistant Government Pleader for the State.

Shri Y.S. Jaiswal, Advocate for respondent no.2.

CORAM: SMT.M.S. JAWALKAR AND PRAVIN S. PATIL, JJ.
DATED : 23/06/2025.

Heard.

2. Learned Assistant Government Pleader raised a preliminary objection that this matter pertain to the Single Bench of this Court.

3. As per the provisions of Section 49(4) of the Maharashtra Regional and Town Planning Act, 1966 (hereinafter referred to as 'the Act'), there is an obligation to acquire land on refusal of permission or on grant of permission in certain cases there are certain conditions mentioned in Section 49(1) of the Act. In view of this provision, owner or person affected may serve on the State Government a purchase notice within such time and in such manner, as is prescribed by regulations requiring the Appropriate Authority to purchase the interest in the land in accordance with the provision of this Act. Section 49(4) of the Act reads thus as under :

“49. (4) On receiving such records or reports, if the State Government is satisfied that the conditions specified in sub-section (1) are fulfilled, and that the order or decision for permission was not duly

made on the ground that the applicant did not comply with any of the provisions of this Act or rules or regulations, it may confirm the purchase notice, or direct that planning permission be granted without condition or subject to such conditions as will make the land capable of reasonably beneficial use. In any other case, it may refuse to confirm the purchase notice, but in that case, it shall give the applicant a reasonable opportunity of being heard.”

5. In the present matter, learned Assistant Government Pleader drawn our attention that purchase notice was issued on 01.04.2024, which was received on 04.04.2024 by the concerned Authority. Hearing was conducted on 23.07.2024 and the application came to be rejected on 03.10.2024 i.e. within a period of six months as provided under Section 49(4) of the Act. As such, it is submitted that the order passed by the Competent Authority rejecting the purchase notice, is a quasi-judicial authority.

6. The learned Assistant Government Pleader has relied upon the decision of this Court in the case of ***Mihir Yadunath Thatte vs. State of Maharashtra and ors. 2006 SCC OnLine Bom 1152***, wherein in paragraph 64, some criteria are laid down by the Division Bench of this Court to make a decision, which reads as under : .

“...

13. To make a decision or an act judicial, the following criteria must be satisfied :

1) It is in substance a determination upon investigation of a question by the application of objective standards to facts found in the light of pre-existing legal rules;

2) It declares rights or imposes upon parties obligations affecting their civil rights; and

3) that the investigation is subject to certain procedural attributes contemplating an opportunity of presenting its case to a party, ascertainment of facts by means of evidence if a dispute be on

questions of fact, and if the dispute be on question of law on the presentation of legal argument, and a decision resulting in the disposal of the matter on findings based upon those questions of law and fact.”

7. In view of this criteria and also the Rule 18 of Chapter XVII of the Bombay High Court Appellate Side Rules, 1960, the Single Bench would be an Appropriate Bench, which has jurisdiction to decide this issue.

8. Though the learned Counsel for the petitioner has relied upon some judgments of Division Bench of this Court, however this preliminary objection was not raised in any of the matter.

9. It is made clear that, we are not made any observation on merit.

10. The Registrar (Judicial) to place this matter before the appropriate Single Bench.

(PRAVIN S. PATIL, J.)

(SMT. M.S. JAWALKAR, J.)

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