



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

WRIT PETITION NO. 6726 OF 2025

Subhashchandra Hukumchand Khurana,
aged 54 years, Occ. Agriculturist,
R/o B-26, Shankaracharya Road,
Adarsha Nagar, North West, Delhi

.... Petitioner

vs.

1. The State of Maharashtra,
through its Secretary,
Urban Development Department,
Mantralaya, Mumbai-32.
2. The Director,
Town Planning, Maharashtra State, Pune.
3. Nagar Parishad Warud,
Through its Chief Officer/Administrator,
Warud, Tq. Warud, Dist. Amravati
4. The Land Acquisition Officer/Deputy Collector,
(Acquisition), Laghu Sinchan, Amravati
5. Umesh Atmaramji Yawalkar,
aged about 55 years, Occ. MLA,
R/o Prabhag No.2, Ring Road, Warud,
Tq. Warud, Dist. Amravati
6. Swapnil S/o Shashikant Belsare,
aged about 38 years, Occ. Business,
R/o Ward No.10, Jagrut Colony, Warud,
Tq. Warud, Dist. Amravati
7. Kiran S/o Nanarao Sawarkar,
aged about 37 years, Occ. Councillor,
R/o Ward No.19, Bhavani Chowk, Warud,
Tq. Warud, Dist. Amravati

... Respondents.

Shri Mohammad A. A. Mushtaque, Advocate for petitioner.
Shri D. V. Chouhan, Senior Advocate and Government Pleader with Shri N. S. Rao, Assistant Government Pleader for respondent Nos.1, 2 and 4.
Shri Abhay Sambre, Advocate for respondent No.3
Shri F. T. Mirza, Senior Advocate a/by Shri Sameer Khan, Advocate for respondent Nos.5, 6 and 7.

CORAM : **ANIL S. KILOR AND RAJ D. WAKODE, JJ.**
DATE : **29th April, 2026.**

JUDGMENT : (Per : Raj D. Wakode, J.)

Heard Shri Mohammad A. A. Mushtaque, learned counsel for the petitioner, Shri D. V. Chouhan, learned Senior Advocate and Government Pleader for respondent Nos.1, 2 and 4, Shri Abhay Sambre, learned counsel for respondent No.3 and Shri F. T. Mirza, learned Senior Advocate a/by Shri Sameer Khan, learned counsel for respondent Nos.5, 6 and 7.

2. **Rule.** Rule made returnable forthwith. Heard finally with the consent of the parties.

3. The petitioner has approached this Court seeking challenge to the impugned communication dated 17/10/2025 issued by respondent No.1-State of Maharashtra through its Secretary, Urban Development Department and respondent No.2-Director, Town Planning, Maharashtra State, Pune.

4. Brief facts leading to the filing of the present writ petition are as follows.

The petitioner is the owner of an agricultural property bearing S. No.258 (divided into S. No.258/1, 258/1A, 258/1B, 258/2, admeasuring about 0.88R., 0.88R., 0.87R. and 0.81R respectively, thus total area 3H. 44R.), to the extent

of Area 2H. 28R. of Mouza Warud, Tq. Warud, Dist. Amravati situated within the limits of Municipal Council, Warud (herein after referred as 'the aforesaid land').

5. Perusal of the petition would reveal that this is a case wherein respondent No.2-Director, Town Planning, Maharashtra State has in accordance with the provisions of law declared that the reservation of the aforesaid land stood lapsed. Before delving into the relevant facts, it would be appropriate to reproduce the relevant provisions of Section 127 of the Maharashtra Regional & Town Planning Act, 1966 (hereinafter referred as 'the said Act') which read thus :

127. Lapsing of reservations :

((1)] If any land reserved, allotted or designated for any purpose specified in any plan under this Act is not acquired by agreement within ten years from the date on which a final Regional plan, or final Development plan comes into force for, if a declaration under sub-section (2) or (4) of section 126 is not published in the Official Gazette within such period, the owner or any person interested in the land may serve notice, along with the documents showing his title or interest in the said land, on the Planning Authority, the Development Authority or, as the case may be, the Appropriate Authority to that effect; and if within [twenty-four months] from the date of the service of such notice, the land is not acquired or no steps as aforesaid are commenced for its acquisition, the reservation, allotment or designation shall be deemed to have lapsed, and thereupon the land shall be deemed to be released from such reservation, allotment or designation and shall become available to the owner for the purpose of development as otherwise, permissible in the case of adjacent land under the relevant plan.

[(2) On lapsing of reservation, allocation or designation of any land under sub-section (1), the Government shall notify the same, by an order

published in the Official Gazette.]”

6. The petitioner who is the owner of the aforesaid land has waited for almost 18 years before issuing the purchase notice under Section 127(1) of the aforesaid Act for acquisition of the aforesaid land. The Government of Maharashtra vide Notification No.TPS-2809/1896 /CR-8(A) /2004/UD-30 dated 15/07/2005 which came into force with effect from 01/09/2005, sanctioned the development plan of Warud Municipal Council under the provisions of Section 31(1) of the Maharashtra Regional & Town Planning Act, 1966. In the aforesaid sanctioned development plan, approximately 2.238 HR of the aforesaid land bearing Survey No.258 of Mouza Warud owned by the petitioner was affected by Reservation No.7-‘Weekly Market’.

7. The respondent No.3-Municipal Council, Warud was designated as Planning Authority (Appropriate Authority) for acquisition and development of the aforesaid Reservation. Though the sanctioned development plan came into effect on 01/09/2005, for a period of ten years i.e. till 01/09/2015, the said land affected by the said reservation was not acquired by the Appropriate Authority. Hence the petitioner served a notice under Section 127(1) of the aforesaid Act on the Appropriate Authority on 20/07/2023. The notice was duly received by respondent No.3 on 24/07/2023. The aforesaid fact is not disputed by the respondent No.3. Even after receipt of such notice, the aforesaid land of the petitioner was not acquired either by agreement or by issuing notification under sub-section (2) or (4) of Section 126 of the said Act

in official gazette. Thus, there were no steps initiated by respondent No.3 as contemplated under Section 127 for acquiring the aforesaid land. In view of above, the respondent No.2 -Director, Town Planning had called report from Joint Director, Town Planning, Amravati. In pursuance of the same, the Joint Director, Town Planning, Amravati submitted his report on 16/09/2025 stating that though the Municipal Council, Warud, has submitted a land acquisition proposal, no notification under the provisions of section 126(2) or 126(4) of the said Act has been published in the Official Gazette within a period of 24 months from the date of service of the said notice under the provisions of section 127(1) of the said Act for acquisition of the said land. Therefore, it is necessary to issue an order under the provisions of Section 127(2) of the said Act.

8. In accordance with the provisions of law being duly complied and the report of Joint Director, Town Planning, Amravati Division, Amravati, respondent No.2-Director, Town Planning has passed order dated 10/10/2025 thereby declaring that the reservation of the aforesaid land stood lapsed in terms of Section 127(1) of the said Act. He further notified such decision regarding lapsing of reservation in respect of the aforesaid land as per the provisions of Section 127(2) of the said Act and accordingly amended the Sanctioned Development Plan pointing out that 2.28 Ha of the aforesaid land which was reserved vide Reservation No.7 for 'Weekly Market' should be released. The order dated 10/10/2025 passed by respondent No.2-Director, Town Planning,

Pune is at record page 66 (Annexure-6).

9. It is worth to mention here that the aforesaid order dated 10/10/2025 was not challenged by any of the Authorities before the Court of law and thus has attained finality. However, for the reasons best known to respondent No.1- Secretary, Urban Development Department, on 17/10/2025 has issued the impugned communication staying the aforesaid order dated 10/10/2025. Being aggrieved by the same, the petitioner has approached this Court.

10. Perusal of the aforesaid order reveals that respondent No.2 has stayed his own order in compliance of communication dated 17/10/2025 and has directed respondent No.3 not to act upon the same.

11. The respondent No.3 has filed his reply on 06/01/2026 wherein respondent No.3 has tried to point out necessary steps taken by the respondents for acquiring the aforesaid land. It is pointed out that it has submitted the proposal for acquisition of land and grant of necessary funds for acquiring the aforesaid land to the State Government. The Planning Department of the State Government has granted funds of Rs.10 Cr for the acquisition and development of the aforesaid land vide its communication dated 20/10/2025. It is further submitted that by Resolution dated 04/11/2025, a technical sanction is given for acquisition of the aforesaid land and the proposal was submitted to the Collector for administrative approval. The Collector vide his communication dated 01/01/2026 has granted administrative approval for acquisition of the

aforesaid land.

12. Shri Abhay Sambre, learned counsel for respondent No.3 submits that on 07/11/2025, measurement of the aforesaid land was done and the measurement sheet was submitted to the Land Acquisition Officer for further acquisition process. He vehemently submits that respondent No.3-Appropriate Authority has taken all the necessary steps for acquisition of the aforesaid land and hence the present petition is devoid of merits and deserves dismissal.

13. Shri F. T. Mirza, learned Senior Advocate assisted by Shri Sameer Khan, learned counsel had filed an application for intervention in the present writ petition on behalf of respondent Nos.5, 6 and 7. The aforesaid application was allowed by this Court on 30/03/2026. Shri Mirza, learned Senior Advocate argued that the aforesaid land is the only suitable and available land within the municipal limits for establishing Weekly Market and no alternative site exists. Thus, due to the lapsing of reservation of the aforesaid land, the entire Warud will be left without Weekly Market resulting in serious hardship and inconvenience to the general public. It is submitted that respondent No.5 is the member of State Legislative Assembly representing Warud and in order to address such grievance of the general public, he has been approaching the concerned government Authorities for establishing Weekly Market in Warud. Our attention is invited to the Government Resolution dated 20/10/2025 (record page 131 Annexure-R5-1) whereby respondent No.1 has allotted a fund

of Rs.10 Crore for acquisition of the aforesaid land for the reservation of Weekly Market.

In view of the above, Shri Mirza, learned counsel submits that the present petition is devoid of merits and deserves to be dismissed.

14. No doubt, respondent No.3-Authority has taken steps for acquisition of the aforesaid land but the fact remains that the aforesaid land was reserved in the Sanctioned Development Plan which came into force on 01/09/2005. The respondents have not acquired the aforesaid land within a period of 10 years from the date on which Sanctioned Development Plan came into force i.e. on 01/09/2015. It is after lapse of further about eight years from the aforesaid date that the petitioner has issued purchase notice under Section 127(1) of the said Act on 20/07/2023 which was duly received by respondent No.3 on 24/07/2023. All the aforesaid steps as pointed out by learned counsel Shri Sambre for respondent No.3 and Shri F. T. Mirza, Senior Advocate for reservation Nos.5, 6 and 7 were taken by the respondents after 24/07/2025 which was the outer limit as provided under the statute. Section 127(1) clearly provides that if the Appropriate Authority does not take any steps as mentioned under Section 127(1) or does not acquire the land within a period of 24 months from the date of service of purchase notice, reservation is deemed to have been lapsed and the land shall be duly released from such reservation.

15. Admittedly, in the present case, respondent No.3 has neither acquired

the aforesaid land nor have taken any steps as mentioned in Section 127(1) of the said Act prior to completion of 24 months and thus respondent No.2 in compliance of Section 127(2) of the said Act has passed the order dated 10/10/2025 thereby notifying that reservation in respect of the aforesaid land stood lapsed and the land should be released from such reservation. The impugned order dated 17/10/2025, in our considered view is issued by respondent No.1 in colourable exercise of power and violating the decorum and discipline of the quasi judicial Authority. The respondent No.1 has acted as the appellate Authority of respondent No.2-Director, Town Planning, Pune without there being any appeal provided in the statute or being filed by any of the necessary party in the present case. Thus, the stay granted by respondent No.1 vide impugned communication dated 17/10/2025 is *dehors* of any authority in law which has severely caused prejudice to the rights of the petitioner guaranteed under Section 300-A of the Constitution of India. The petitioner, in paragraph 15 of the petition has stated on oath that respondent No.1 has acted under political influence and the aforesaid fact is duly substantiated by Civil Application No.278/2026 which is filed by applicant No.1 who is local MLA and applicant No.3 Councillor of Municipal Council thereby opposing the present writ petition.

16. The respondent Nos.5 to 7 vehemently opposed the present writ petition inspite of the fact that they are not at all concerned with the subject matter of the petition. Respondent Nos.5 to 7 are neither related to the aforesaid land in

question nor with the Authorities who are involved in the process of acquisition of the aforesaid land. The petitioner has placed on record at page 78, Annexure-10 a news paper cutting so also the advertisement published by respondent No.5 solely with the intention of grabbing publicity for securing the credit of bringing the fund of Rs.10 Crore for acquisition of the aforesaid land. The impugned communication dated 17/10/2025 issued by respondent No.1 (at record page-74A) by which stay is granted to the notification dated 10/10/2025 issued by respondent No.2, without there being any provision in law, specifically refers to the communication dated 14/10/2025 issued by respondent No.5. Infact it is on the basis of the communication dated 14/10/2025 submitted by respondent No.5 that the impugned communication dated 17/10/2025 was issued by the respondent No.1. Thus, the petitioner is completely justified in arguing that it is at the behest of respondent No.5 who is a political leader that respondent No.1 has issued the impugned communication dated 17/10/2025. The aforesaid intervention of the political leader in functioning of the quasi judicial Authority has been strongly deprecated by this Court in case of *Savitribai vs. State of Maharashtra*, **2009 (4) Mh.L.J. 406**. Similar is the case of another impugned communication dated 17/10/2025 issued by respondent No.2 which is nothing but a consequential communication issued by respondent No.2 in compliance of the directions issued by respondent No.1 vide impugned communication dated 17/10/2025. The respondent No.2 without there being any authority in law or such provision in the said Act has stayed his own notification dated 10/10/2025

issued under Section 127(2) of the said Act. The aforesaid communication dated 17/10/2025 while granting stay to the notification dated 10/10/2025 proposes that hearing is scheduled on 18/11/2025 at 3 pm for hearing the respondent No.3 so also the petitioner. Upon query, Shri Mohammad A. A. Mushtaque, learned counsel for the petitioner submits that even after passage of five months now, not a single hearing has been conducted by the respondent No.2 nor any order has been passed.

17. Rightly so, the respondent No.2 could not have passed any order or have conducted hearing as contemplated in the impugned communication dated 17/10/2025 as he lacks such power under the said Act, having once issued a notification under Section 127(2) of the said Act and having declared that reservation of the aforesaid land stood lapsed. In fact, such declaration is also a formal expression of lapsing of reservation which is by operation of law as soon as period of 24 months from the date of service of purchase notice under Section 127 is expired and no steps are commenced for acquisition of the reserved land.

18. Thus, in our considered opinion, the impugned order dated 17/10/2025 is vitiated by bias and is unsustainable in the eyes of law.

19. In view of the above, writ petition is allowed.

20. The impugned communication dated 17/10/2025 which is at record page 74-A issued by respondent No.1 so also by respondent No.2 (record page

73, Annexure-8) is hereby quashed and set aside.

21. Rule is made absolute in above terms. No order as to costs.

(Raj D. Wakode, J.)

(Anil S. Kilor, J.)