



**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

2 WRIT PETITION NO. 10217 OF 2014
WITH CA/2521/2017 IN WP/10217/2014 WITH WP/10900/2014
WITH WP/10909/2014 WITH WP/11836/2014 WITH WP/412/2015
WITH WP/413/2015 WITH WP/1314/2015 WITH WP/1315/2015
WITH WP/1316/2015

BHOGIBHAI SHIVJI PATEL AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for Petitioners : Mr. A.B. Kale
AGP for Respondent/State: R.V. Dasalkar
Advocate for Respondent: Mr. A.S. Bajaj

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**CORAM : T.V. NALAWADE AND
SANGITRAO S. PATIL, JJ.**

DATED : April 10, 2017.

ORDER : [PER SANGITRAO S. PATIL, J.]

After considering the record and proceedings of the petitions, it transpired that some of the documents are required to be brought on the record for final and effectual adjudication of the petitions. There are some legal points which are required to be answered by both the parties. The documents, which are required to be produced as well as the points which are required to be answered by the parties are as follows :-



1. Produce the issues of Daily Newspapers in which the declaration under Section 126 (4) read with Section 6 and the corrigendum thereto were published.

2. Whether the changes made in the Draft Development Plan were notified in the Official Gazette? If yes, produce the copy of such Notification.

3. Produce the original representation dated 01.02.2007 allegedly signed by the petitioners after receiving notice under Section 12(2).

4. Produce receipts of the amount of compensation deposited in the Court.

5. When CIDCO is appointed as Special Planning Authority for developing the notified area under Section 40(1)(b) of MRTP Act, how the second proviso under sub-section (1A) can be made applicable?

6. (a) Section 113 (3A) makes it clear that CIDCO is appointed as an agent of the Government for developing and disposing of land in the area of a new town. Whether Government has, by notification in the Official Gazette,



declared CIDCO to be the New Town Development Authority for the area where the acquired lands situate?

(b) If yes, whether the Government would be required to acquire the lands either by agreement or under the provisions of Land Acquisition Act, 1894?

7. When Chapter VI specifically deals with "New Towns", how the provisions of Section 40(3) can be invoked for claiming benefit of the omission of Section 113A and modification of certain provisions of Sections 114, 115 and 116 as stated in Clauses (a),(b),(c),(d), and (e) under sub-section (3) of Section 40.

8. Whether CIDCO can be called as acquiring body in view of Section 113(3A) and the judgment in the case of **CIDCO Vs. Percival Joseph Parcira 2013 (4) All M.R. 247.**

9. Proviso to Section 125 of MRTTP Act excludes applicability of Section 4 to 15 (both inclusive) of the Act of 2013 to the lands needed for the purposes of Regional Plan, Development Plan or Town Planning. Whether Section 24 of the Act of 2013, which is not specifically excluded can be made applicable to



such lands?

2) Since the petitions would be required to be re-heard, they should be placed before the appropriate bench as per the assignment.

[SANGITRAO S. PATIL, J.] [T.V. NALAWADE, J.]

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