



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

PUBLIC INTEREST LITIGATION NO. 28 OF 2019

Indian Institute of Architects
Navi Mumbai Center
Through its Chairman, Shekhar Bagool and
Jt. Secretary Kaushal Jadia

... Petitioner

Versus

1. The City & Industrial Development Corporation Ltd.
Nariman Point, Mumbai – 400 021.
2. State of Maharashtra, through Chief Secretary
Urban Development Department, Mumbai-400032.
3. Navi Mumbai Municipal Corporation,
Head office, Sector – 15A, CBD Belapur,
Navi Mumbai – 400 614.
4. Divisional Commissioner,
1st floor, Konkan Division, Konkan Bhavan
CBD Belapur, Navi Mumbai.
5. M/s. Progressive Homes,
707, 'Devavrata', 7th floor, Plot No. 83,
Sector-17, Vashi, Navi Mumbai – 400 705
Through their Partners
(i) Vinod Dahyalal Trivedi
(ii) Devang Vinod Trivedi
(iii) Jigar Vinod Trivedi
6. The Additional Chief Secretary,
Ministry of School Education and Sports,
Mantralaya, Mumbai.
7. Director of Sports,
Govt. of Maharashtra, Sports Complex,
Balewadi, Pune.

8. Pradip Sampatrao Indulkar
1, Sagar Darshan CHS,
Juhu-Versova Link Road,
Four Bungalow, Andheri (W)
Mumbai – 400 053.

...Respondents

Mr. Indrajeet Kulkarni for Petitioner/Applicant.

Mr. Nitin V. Gangal with Mr. Ashok D. Kadam with Ms. Purna Shukla for Respondent No.1/CIDCO.

Mr. Y. S. Jahagirdar, Senior Advocate with Mr. Girish S. Godbole, Senior Advocate with Mr. Vijay Kumar Aggarwal and Mr. Shamim Shaikh, for Respondent No.5.

Mr. B. V. Samant, Addl. Govt. Pleader with Mr. A. A. Alaspukar, AGP for State/Respondent Nos.2, 4, 6 and 7.

Mr. Tejesh Dande with Mr. Bharat Gadhavi for Respondent No.3/ NMMC.

Ms. Nilima Sanglikar, for Respondent No.8.

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CORAM:

**G. S. KULKARNI &
JITENDRA JAIN, JJ.**

RESERVED ON:

19 OCTOBER, 2023

PRONOUNCED ON:

01 JULY, 2024

JUDGMENT (Per G. S. Kulkarni, J.)

(A) Prelude

1. As to whether vacant land earmarked from the year 2003 for a 'Government Sports Complex' at Navi Mumbai, should be sacrificed for concretization and commercial exploitation, is the issue raised in the present Public Interest Litigation.
2. The Indian Institute of Architects, Navi Mumbai Center, is before the Court in this public interest litigation, *inter alia* assailing the actions of respondent No.1 – City Industrial Development Corporation Ltd. (for short 'CIDCO') and of the State of Maharashtra through its Sports Department and the Urban Development Department.
3. The subject matter of controversy is land admeasuring about 20 acres situated at Sector 12 and 13 ("**land**") at Ghansoli, Navi Mumbai, which has been earmarked since 2003 by the CIDCO to be utilized for setting up a Government Sports Complex, of an international standard as per the sports policy/decision of the Government of Maharashtra under the Government Resolution dated 26 March 2003. CIDCO was constituted as a New Town Development Authority for New Bombay (now the Navi Mumbai) region by the State Government in the year 1971.

It is contended by the petitioner that with appropriate foresight and in recognition to the importance “sports” in the contemporary times would internationally wield, about 61 acres of land in sector 12 and 13 was earmarked for a contiguous sports complex, namely, for a “Government Sports Complex” on land admeasuring 20 acres and a Sports Complex to be set up by the Navi Mumbai Municipal Corporation (for short “NMMC”) on the remaining 41 acres of land.

4. The case of the petitioner is that a dent was caused to such demarcation when the same was sought to be taken away when CIDCO floated a tender in August 2016 inviting bids to allot a part of the land demarcated as plot Nos. 1, 2 and 4 for residential purpose and plot no. 5 for residential and commercial use. In such tender, none other than respondent No. 5’s participation was accepted, who came to be allotted plot no. 4 which was part of the land proposed to be developed as a Government Sports Complex.

5. The case of the petitioner is also that after filing of the petition, there were subsequent developments, to the effect that the Government which had intended to develop the said land at Ghansoli for Government Sports Complex, has now ostensibly proposed to set up such complex at a far off place in a rural area namely at Village Nanore, Taluka Mangaon,

District Raigad, which is more than 115 kilometers away from the existing site at Ghansoli (Navi Mumbai). The petitioner contends that such place lacks the basic necessary infrastructure much less internationally accepted for a sports complex. It is hence contended by the petitioner that it is unthinkable that such decision could be taken by the State Government. This decision of the State Government, which is of a recent origin, is also challenged by the petitioner. As on date, out of 41 acres of land earmarked for NMMC, 36 acres of land has been handed over to the NMMC by CIDCO to develop its sports complex. However, the land earmarked for the contiguous government sports complex as proposed in the year 2003 is being illegally taken away to be shifted to far off place in the rural area, is the case of the petitioner. On such backdrop, respondent No.5 who has been allotted a part of the land earmarked for the government sports complex is asserting to develop the land as allotted to it by CIDCO. Respondent No.5 has also taken a stand that it is ready for realignment of the allotted plot so as to make a way for the Government of Maharashtra Sports Complex. Such is the complexion of the proceedings before us.

6. During the pendency of the petition, the Additional Chief Secretary, Ministry of School Education and Sports, Government of Maharashtra and the Director of Sports, Government of Maharashtra, were permitted to be

impleaded as parties. Further, a private respondent, namely, respondent No. 8 who has supported the petitioner's cause, was also permitted to be impleaded as a party to the present proceedings.

7. As the petitioner has referred to paragraph (1) of the petition in prayer clause (1) of the petition, we note the contents of such paragraph, which has a bearing on the reliefs as prayed for, which also reflect the grievance of the petitioner, to which briefly we have adverted hereinabove.

Paragraph 1 of the Writ Petition reads thus:-

“1. **Subject matter in brief:**

The present petition is filed for directions to the respondent nos.1 & 2.

I) To reinstate entire plot of land (admeasuring about 43.00 acres which also includes about 23.00 acres extension of sports complex as per NMMC's General Body Resolution held in September 2013, situated at Sector 12 & 12A Ghansoli, Navi Mumbai that was earmarked for Regional Sports Complex of International Standards as envisaged by Govt. of Maharashtra vide their G.R. dt. 26th March 2003, as explained/detailed below.

a) To cancel the sub-division and change of use made by CIDCO illegally (viz. Plot No.04- Residential use & Plot No.05 for C+R use), on the sports complex plot earmarked for NMMC admeasuring about 5.00 acres, in Sector-12 and reinstate the said plot to original use viz. sports complex for NMMC. General body of NMMC has also earlier resolved in September 2013 to reserve the said plot for extension of sports complex.

b) To cancel the relocated allotment of tender Plot No.04, which is illegally shifted by CIDCO within plot earmarked for Government of Maharashtra Sports Complex abutting Palm Beach Road and to reinstate the use, back to sports complex for

Government of Maharashtra, admeasuring totally about 20.22 acres, as earmarked earlier.

c) To cancel the illegal sub-division of plot (viz. No. 1 & 2) admeasuring about 5.00 acres in Sector- 12, and allot to NMMC the same, along with the area of about 18 acres located in Sector 12- A, as per NMMC General Body resolution passed way back in September 2013.

d) To restrain CIDCO from further subdividing of plots earmarked for NMMC sports complex plot and Govt. of Maharashtra sports complex plot in Sector- 12, Ghansoli and also in adjoining Sector- 12A.

e) To set aside the Land pricing policy framed by CIDCO in 2007 for social facility plots and randomly approved by Govt. Of Maharashtra subsequently, surpassing the earlier GR of 6th January 1994 and Sports GR dated 24th February 2003.

II) By virtue of Government of Maharashtra Notification dated 15 December 1994 and 29 July 2008, respondent No.3 becoming the full fledged planning authority, to restrain Respondent No.1, CIDCO perpetually as a planning authority in areas under NMMC jurisdiction to enable Respondent No.3, NMMC to be/act as the planning authority in totality.”

8. It may be noted that during the course of hearing and as recorded by the Court in its order dated 18 July 2023, on behalf of the petitioner a statement was made that only the following prayers as made in the writ petition are being pressed by the petitioner:

“10.1 This Hon’ble Court by an appropriate order may kindly direct Respondent nos.1 & 2 to reinstate the entire plot of land, as detailed viz, as per 1) I, a, b, c, d, e and II.

10.2 Any other and further relief as in the nature and circumstances of the case deems fit, may kindly be granted.

10.3 This Hon’ble Court by an order may kindly direct the Respondent no.2, the State Government, to set aside two

impugned G.R's dated 26th March 2021 and 14th June 2021 which are at "Exhibit-"U" and "Exhibit-"V" respectively.

10.6 The allotment of plot no. 4 (within plot no. 3) to respondent no. 5 also be quashed and set aside the same being illegal, in contravention Reg. 4(i) of Navi Mumbai Disposal of Land Regulations and allotted without invitation of tender to a private party, when the land is designated for public purpose of Govt. Sports Complex and the plots be restored to their state with restoration of the location and numbering.

10.10 A Committee under Chairmanship of Chief Secretary along with Secretary of School Education and Sports department, Urban Development department be constituted for the implementation of project of Sports Complex under observation of Hon'ble High Court.

10.11 The Hon'ble Court by an order may kindly quash and set aside the government order dated 6 September, 2021."

(B) FACTS

9. The facts in some detail can be noted: The petitioner is a national body of Architects described to play a major role in promoting the profession of Architecture by organizing and uniting the Architects of India, to promote aesthetic, scientific and practical efficiency of the profession in both practice and in education. It has *inter alia* formed city-wise centres under respective State level chapters. It has a State level chapter at Navi Mumbai.

10. The petitioner contends that in the contemporary times, globally sports have assumed an important role in the development of nations, hence, it is of utmost necessity that sports complexes are created, which are

available to be used by all the citizens. Such complexes can also be used for recreational activities and for other uses like for music concerts, laser shows, entertainment, various types of sports academies, and other similar activities. It is contended that this would also add to the creation of international cities in which sports is a subject of substantial concern and importance by the Government, in the interest of overall development of the country. It is hence, the duty of the State to have proper infrastructure for sports activities, is the case of the petitioner. It is contended that the sports complex of international standards can also be used for various national and international events like the Asian games, Commonwealth games, National & State level games as also for Mini Olympics, etc.

11. In the year 1992, NMMC came to be constituted as a municipal corporation for Navi Mumbai, under the Bombay (now Maharashtra) Provincial Municipal Corporation Act, 1949. The NMMC was to be the second planning authority for different nodes (areas) of Navi Mumbai. It is contended that prior to the formation of NMMC, CIDCO was the only planning authority for the various nodes viz; Vashi, Koparkhairane, Ghansoli, Airoli, Sanpada, Nerul and Belapur. It is stated that on its constitution, NMMC became the planning authority for 44 villages including the areas vested with CIDCO. The petitioner has contended

that as set out in Government's order dated 6 January 1994 (Exhibit A) all lands/plots earmarked or reserved for public purposes under the development plan for New Bombay prepared by CIDCO, were to be transferred to NMMC by CIDCO. It is stated that operationally NMMC became the planning authority for Navi Mumbai area (except Ghansoli) vide Government order dated 15 December 1994 (Exhibit B) and subsequently, it is stated to have assumed authority as the planning authority for Ghansoli node vide Government order dated 29 July 2008 (Exhibit C). It is stated that NMMC being a planning authority, it had obligations to provide for civic services for which it needed land / plots which could be earmarked for public purposes, this apart from the lands which were earlier earmarked by CIDCO to be used for public purposes in the development plan prepared by the CIDCO.

12. It is the petitioner's case that much prior to the NMMC being constituted as the planning authority for Ghansoli city, the State Government under Government Resolution dated 24 February 2003 had resolved that a Regional Sports Complex be established and developed in each revenue Region, a "Taluka sports complex" at Taluka level, and a "District Sports Complex" at District level. It was also resolved that for building such sports complexes, Government lands or the lands belonging

to local governments be earmarked for sports complexes and the same should be handed over, for the development of sports complex, free of occupancy price and free of revenue, to the respective authorities.

13. The petitioner contends that in pursuance of such sports policy, the State Government issued a specific Government Resolution dated 26 March 2003, whereunder one Regional Sports Complex of international standard with all necessary facilities for each of the Revenue Region was to be provided in Thane / Navi Mumbai. Such Government Resolution also set out various financial facilities which would be provided in such sport complexes. It is contended by the petitioner that accordingly CIDCO earmarked about 61 acres of land in sector 12 and 13 of Ghansoli Node for sports complex. Out of the said 61 acres, 41 acres of land was earmarked for allotment to NMMC for its sports complex and remaining about 20 acres was earmarked for allotment to the State Government for the Government of Maharashtra Sports Complex. It is stated that out of the 41 acres, about 36 acres have been allotted for NMMC in the year 2017 and possession of the same was also handed over. The petitioner has contended that 20 acres of land to be utilized for the Government Sports Complex, formed a contiguous part of the adjoining sports complex to be set up by the NMMC, as merely 20 acres could not have accommodated

an international standard cricket stadium along with statutory parking and other facilities.

14. It is stated by the petitioner that such land being earmarked for the sports complexes was apparent from the departmental notes and the inter-office correspondence dated 22 June 2007 (Exhibit G). It is contended that area of 41 acres earmarked for NMMC Sports Complex in Sector 12 and sector 13 in Ghansoli node was reduced by the CIDCO by about 5 acres in Sector 12 without any intimation and consent of the NMMC, and a letter of allotment dated 19 January 2017 with such reduced plot area, was issued by CIDCO to the NMMC.

15. The petitioner has next contended that on 26 February 2007, the State Government issued a land pricing and land disposal policy for educational, religious, cultural and other social facilities including health and public utilities in Navi Mumbai. Also as per the Government Sports Policy Resolution, public facility plots to be developed were brought under pricing and earlier regime of free vesting was deviated. The petitioner contends that such policy was not in line with the 2003 Government Resolution on Sports Infrastructure and in its applicability to the Government Sports Complex *qua* lands which in fact would stand vested

with the State Government and of its ownership. It is contended that this position was recognized in the earlier orders of the Government of Maharashtra dated 6 January 1994. It is stated that in fact such decision of the State Government if applicable to the Government Sports Complex, was very much suicidal to the basic plan of developing sports complexes including the setting up of the Konkan Regional Sports Complex at Navi Mumbai. It is contended that such policy was issued contrary to the provisions of the Maharashtra Regional and Town Planning Act, 1966 (for short 'the **M RTP Act**') and more particularly, contrary to Section 37 thereof, being a provision dealing with minor modification of a development plan and the procedure to be adopted thereunder. It is petitioner's contention that accordingly CIDCO also modified its pricing policy vide board resolution dated 26 September 2007, which according to the petitioner, was an illegal act on the part of the CIDCO qua its applicability to the allotment of land for the State Government Sports Complex.

16. The petitioner contends that NMMC re-evaluated its land requirement qua the need for establishing regional sport complex, meeting international standards, in comparison to similar types of sport complexes built and in existence in the State of Maharashtra and elsewhere like Indira

Gandhi Sports complex at New Delhi (admeasuring about 102 acres) and Baner Sport Complex at Pune (admeasuring about 128 acres). In such context, NMMC by its letter dated 31 July 2012 addressed to CIDCO as also to the State Government, demanded handing over of the land reserved for the sports complex at Sector 13 along with the plot of land reserved for sports/cricket stadium to be developed by State of Maharashtra at Sector 12 and 12A situated at Ghansoli node along with the subdivided plots of lands bearing plot nos. 1, 2, 4 and 5 at Sector 12 and other plots of lands which were not numbered including land at Sector 12A at Ghansoli. Such letters, according to the petitioner, deal with the justification of requiring larger land admeasuring about 77 acres.

17. It is the petitioner's case that in September 2013 the General Body of the NMMC in its capacity as a local self Government, passed a resolution reserving plots on South and North side of Government of Maharashtra Sports Complex, for extension of sports complex to provide International Standard Integrated Regional Sports Complex. Also objections from the public at large were invited by issuance of a public notice in Government Gazette for such purpose, being proposal for extension of Sport Complex and for forwarding of such proposal for minor modification under Section 37(2) of the MRTP Act of the existing

development plan as earlier published by CIDCO. The grievance of the petitioner is however that although CIDCO was also a planning authority, it was not following the procedure under Section 37 when it intended to modify the requirement of the earmarking of the land for sports complex to be developed by the NMMC as also by the State Government, and that in fact, CIDCO acted in breach of the MRTP Act. It is contended that in these circumstances, NMMC by its letter dated 3 December 2013 addressed to the Divisional Commissioner, Konkan Division, reiterated its demand for 41 acres of land at Ghansoli comprising of 28.13 acres land at Sector 12, 11.06 acres land at Sector 12A and 35.93 acres land at Sector 13, which was adjacent / contiguous piece of land for constructing regional sport complex of international standards.

18. It is contended that surprisingly CIDCO in August, 2006 issued a public tender under Scheme No. MM-II/02/2016-2017 inviting bids for lease of plots for residential and commercial use at Ghansoli, Navi Mumbai, in terms of Annexure I and II of the said notice. Annexure I pertained to plot Nos. 1, 2 and 4 and Annexure II pertained to plot no.5. It is contended that both these sub-divided plots totally admeasuring about 5 acres were part of the land earmarked for NMMC Sport Complex. It is hence contended by the petitioner that CIDCO not only illegally

cancelled 5 acres plot earmarked for NMMC sports complex, but also sub-divided and changed its use to residential and commercial purposes. According to the petitioner, CIDCO had no authority even as a new town development authority to make such sub-division and invite bids and attempt to allot the land earmarked for the sport complex to private parties. It is hence contended by the petitioner that once CIDCO was aware that NMMC is also a planning authority for the Navi Mumbai area, such earmarking of lands which was akin to reservation of land under the CIDCO's development plan, hence CIDCO could not have resorted to change the user of the land earmarked for Government Sports Complex by inviting bids for commercial exploitation of the land, that too without an express approval of the State Government. On such backdrop, the State Government issued a Government Resolution dated 15 December 2017 declaring that the NMMC has intended to prepare a development plan for the Navi Mumbai areas falling within its jurisdiction.

19. The petitioner hence contends that when for such long years under the Government Resolution dated 15 December, 2017 when the land in question was earmarked for the Government Sports Complex at Ghansoli, the CIDCO had no authority to form plots and tender such plots, more particularly plot no.4, out of the land reserved for sport complex to be

allotted to developers for residential and commercial complexes to be constructed. The petitioner in such circumstances addressed a representation dated 15 June 2018 to the Vice Chairman/Managing Director, CIDCO requesting for reinstating the use of the “Regional Sports Complex land” as originally envisaged and planned for such use by cancelling allotment of plot no.4 in favour of respondent no. 3 and also deleting three other plots, being Plot Nos.1, 2 and 5, in Sector 12 at Ghansoli node, Navi Mumbai to be used for residential/residential-commercial development. Such representations were also made to the Principal Secretary, Urban Development Department being representation dated 24 July 2018 as also to the Chief Minister and the Prime Minister on the even date. However, as no action was taken by any of the authorities, the present petition was filed praying for the reliefs which we have noted hereinabove.

20. By an amendment to the petition, the petitioner has contended that during pendency of the petition, the State Government issued a Government Resolution dated 26 March 2021 (Exhibit “U”) by which the State Government shifted the Konkan Regional Sports Complex of International Standard from Ghansoli, Navi Mumbai to Village Nanore, Taluka Mangaon, Dist. Raigad. It is the petitioner’s case, that incidentally

it is exactly 18 years prior to this Government Resolution, (i.e. on 26 March, 2003) the Government had issued a notification ordering to establish Konkan Regional Sports Complex at Navi Mumbai, when 61 acres were earmarked/reserved by CIDCO for the two sports complexes. It is contended that about 78 acres of land earmarked at Ghansoli, Navi Mumbai for Regional sports complex is still vacant and available, out of which, 61 acres was earmarked/reserved by CIDCO in the year 2003, which includes 20 acres reserved for Government of Maharashtra Sports Complex and 41 acres for NMMC sports complex. It is contended that once such decision earmarking 41 acres to be allotted to NMMC was partly implemented by allotting 36 acres of such land to NMMC, there could be no reason as to why the State Government had not been allotted the land earmarked by CIDCO for a government sports complex. It is also contended that such decision to shift the complex at Village Nanore, Taluka Mangaon, District Raigad, hence was totally illegal.

21. The petitioner has also contended that CIDCO could not have invited bids for allotment of 2.5 acres of land from the land earmarked for Sports Complex, for commercial and residential use and allotted the same to respondent No.5, and this more particularly when the matter was subjudice before this Court. It is on such premise the decision of the State

Government as contained in the Government Resolution dated 26 March 2021, is also sought to be assailed by the petitioner along with the action of CIDCO to allot the land in favour of respondent No.5.

22. The petitioner has categorically contended that there is no logic in 24 acres of land being allotted for such sports complex at a place in a rural area (Nanore), which is 115 km away from the present land reserved at Ghansoli, Navi Mumbai, which according to the petitioner was appropriate land kept reserved since the year 2003. It is contended that it is now almost 21 years that the land is still available, and which is required to be developed for the said purpose and more particularly with the international airport coming up at Navi Mumbai, as also when high density of population is available to take advantage of the sports facilities to be made available. It is contended that the State Government cannot protect the CIDCO as also the CIDCO cannot act against the provisions of law in defeating the development of the sport complex at the earmarked area at Ghansoli, Navi Mumbai. It is also contended by the petitioner that in order to make the present proceedings infructuous, the State Government has issued a Government Resolution dated 6 September 2021 (Exhibit "W") by which the State Government has purported to cancel the earmarking of such land by NMMC on plot of land.

23. It is on the aforesaid premise the present petition is being pursued by the petitioner praying for the reliefs as noted hereinabove.

(C) Pleadings: Reply and Rejoinder Affidavits

24. We now refer to the counter affidavit filed on behalf of the respondents and the rejoinder affidavit as placed on record. It needs to be noted that the parties have filed 28 such affidavits. To discuss the case of the respondents as pleaded from time to time and the rejoinder affidavits, would overburden the judgment, however, an endeavour is made to encapsulate the case of the parties in such affidavits, in the order they are filed.

Affidavit of Respondent No.1-CIDCO

25. On behalf of respondent No.1-CIDCO a reply affidavit is filed of Mr. Faiyaz Ahmed Khan, Manager Town Services-1, opposing the petition. At the outset, it is stated that CIDCO is a Government Company, share capital of which is subscribed wholly and exclusively by the Government of Maharashtra. The affidavit sets out the background as to how New Bombay, a twin city, was constituted so as to decongest Mumbai and CIDCO being appointed as a New Town Development Authority for Navi Mumbai. The affidavit makes a reference to the relevant provisions of

the MRTP Act conferring such authority in the CIDCO (as new town development authority) to contend that the lands in Navi Mumbai were “government owned”, acquired for the Navi Mumbai project and vested with the CIDCO. It is stated that unlike any other local authority within whose territorial limits there are privately owned lands, for the area of Navi Mumbai, entire land vested with CIDCO, the State Government being the owner of all the lands. It is stated that considering the contents of the sanctioned development plan prepared by CIDCO for the Navi Mumbai, only the land use zones were demarcated and such demarcation does not designate specific plot-wise reservations, as conventionally undertaken for the development plans prepared by other local authorities. It is stated that in the Nodal plan prepared by CIDCO, plots are not “reserved” and are only earmarked for different land uses. It is stated that the nodal plans are not like development plans, for the preparation of which procedure under MRTP Act was not to be followed, nor was it applicable. It is further stated that the CIDCO enjoys the flexibility to change the land uses of particular lands/plots as per its requirement and no specific land use was ever assigned to the plots/land in question as also there are no statutory reservations as such contemplated under the provisions of MRTP Act and only an earmarking of particular land use in

the nodal plan is provided, such earmarking being not a statutory reservation. The affidavit refers to the powers of CIDCO as conferred under the Navi Mumbai Disposal of Lands (Amendment) Regulations 2008 to dispose of lands. It is stated that in exercise of its powers to dispose lands under the 2008 Regulations, the Marketing section of CIDCO had advertised a scheme of marketing of plots by the tender in question to allot four plots in Sector - 12, Ghansoli node, i.e., plot. Nos. 1, 2 & 4 for residential use and plot No. 5 for residential plus commercial use in the month of August, 2016. It is stated that as per approved Social Facility Norms for Navi Mumbai (B.R. 8899 dated 22.01.2005), a sports complex is a city level facility, which is one for every 5 lakh population with an area of 5 hectares. It is contended that the provisional population of the NMMC area from Airoli to Belapur in the year 2011 was 11.20 lakhs and was to increase to 24.36 lakhs in the year 2031. The affidavit furnishes the details of the lands already allotted to the private parties for recreation purpose.

26. It is next stated that taking into consideration the fact that there was no correspondence from the Government of Maharashtra in regard to the requirement of the said land earmarked for a Government Sports Complex since the year 2004, a Committee of the CIDCO in its meeting held on 1

September 2016 took a decision to change the user of plot No. 3, Sector - 12, Ghansoli from 'Social Facility (Government of Maharashtra Sports Complex)' to 'Future Development'. Referring to the contention of the petitioner in regard to relocation of the Sports Complex, it is stated that although it appears that Plot No.4 is relocated in the area earmarked for Government of Maharashtra Sports Complex, in reality plot No. 4 is relocated in an area earmarked for Future Development, the proposal to relocate the plot has been accepted within the powers vested with the CIDCO, and with due approval of Competent authority. Insofar as the pricing of the land in question, CIDCO's affidavit *inter alia* states thus:-

“... .. The submission of the Petitioner that the said land for Sports Complex should have been handed over free of cost is false and misleading. The reason being that the said GR dated 24.02.2003 in respect of sports infrastructure development guidelines is applicable to the entire state of Maharashtra, whereas the GR dated 06.01.1994 is specific to the lands within the jurisdiction of NMMC wherein CIDCO is the NTDA and Lessor of all lands. Hence for this particular case, the said GR dated 06.01.1994 shall be applicable. The said GR dated 06.01.1994 specifically mentions the rates at which the various categories of public utility and social facility plots are to be handed over to the NMMC. The said GR does not mention that Sports Complex are to be handed over free of cost. Hence, CIDCO has rightly calculated the price as per the prevailing Land Pricing and Disposal Policy, which is approved by the State Govt. Hence the submission of the Petitioner is false and misleading. Further based on the GR dated 26.03.2003, issued by the under Secretary, Social Justice, Sports and Special Assistance Department, the District Sports Officer Thane was in correspondence with CIDCO for allotment of land for development of a Sports Complex under the said Sports Infrastructure Development Plan. The CIDCO had offered to allot a suitable plot to the District Sports Officer Thane

vide letters dated 04.02.2003, 13.11.2003 and 19.05.2004, however, no such detailed proposal was received from the said District Sports Officer, but a request was made for allotment of the land free of cost. Accordingly, CIDCO vide letter dated 02.02.2007 requested the District Sports Officer to obtain specific Orders from the Govt. in case the said land for District Sports Complex is to be handed over free of cost. Further vide letter dated 31.10.2007, CIDCO had issued a final reminder to the District Sports Officer regarding the said plot of 5.0 Ha. **However, the said District Sports Officer failed to obtain such Orders/directives from the Govt. Thus, CIDCO has given sufficient opportunity to the District Sports Officer, Thane to obtain directives from the Govt. which was not issued by the state of Maharashtra. Hence the claim of the Petitioner is false and misleading.”**

(emphasis supplied)

The affidavit accordingly, submits that there is nothing unlawful in the CIDCO proposing to allot the land to respondent No.5.

Affidavit of Respondent No.5 – M/s. Progressive Homes

27. Respondent No.5 being an allottee of plot no.4 Sector 12 Ghansoli has opposed the petitioner’s case of being beneficiary of the allotment of the said plot being a part of the plot reserved for the State Government Sport Complex. Respondent No.5 was allotted the said plot admeasuring 9837.49 sq. meters as per the brochures/public notice inviting bids thereof by CIDCO. The case of the petitioner to the effect that such plot is situated in the middle of the contiguous land reserved for Government of Maharashtra Sports Complex, is being contested by respondent No.5 on the ground that CIDCO was within its authority as new town

development authority, to invite bids for the said plots and even by discarding the position that the said plot alongwith the larger area was earmarked for the Sports Complex, respondent No.5 has contended that having participated in a valid tender issued by the CIDCO and having succeeded in the bidding process and after paying the necessary lease premium amount to the CIDCO, respondent No.5 is legitimately entitled for the said plot and would be entitled to develop the said plot for which the tender was issued. The petitioner's case that CIDCO did not have authority to change the user of the said plot from Government Sports Complex to residential zone, is being denied on the ground that the petitioner has no locus to question the authority of CIDCO, irrespective of the fact that NMMC was constituted as the planning authority for the Navi Mumbai area in the year 1991. It is further contended that the petitioner's case that it is of utmost necessity for the Government to have a Sports Complex for Navi Mumbai is misconceived as there are already other sport complexes, the details of which are set out in paragraph 7(g). It is contended that Plot No.4 being lawfully allotted to respondent No.5 as also lease premium being paid and the possession of the plot being handed over to respondent no. 5, this petition ought not to be entertained for any relief against respondent no. 5. It is further contended that already a 36

acres sports complex is being developed by NMMC and thus, there is no separate need for Government Sports Complex. The affidavit raises contentions referring to the provisions of the MRTP Act and as to how CIDCO would be entitled to allot plots of land in question to the petitioner. There is a rejoinder affidavit filed by the petitioner opposing the contentions as urged by respondent No. 5.

Reply Affidavit of the NMMC

28. There is a reply affidavit dated 16 September 2019 filed on behalf of the NMMC of Shri. Hemant R. Thakur, Assistant Director of Town Planning, NMMC. The affidavit states that plot no.1, Sector 13, Ghansoli admeasuring 145452.96 sq. mtrs. has been earmarked for use as Sports Complex in CIDCO's Nodal Plan, which was the land vested with CIDCO. It is stated that the said plot was allotted for development of Sports Complex by the NMMC, by way of lease for a period of 60 years vide letter dated 28 June 2013. It is stated that such plot is being developed by NMMC for Municipal Sports Complex, the plans in that regard also being sanctioned. It is next stated that adjacent to the said Plot No. 1 in Sector 13, there are two plots in Sector 12 and Sector 12A in Ghansoli Node, which were earmarked by CIDCO for use as 'Government

of Maharashtra Sports Complex'. It is stated that the original development plan, which was prepared by CIDCO and sanctioned by Government of Maharashtra and which came into effect from 1st March 1980 was merely a Sectoral Plan, which only indicated zoning. It is stated that after sanction of the said development plan, CIDCO had prepared node-wise Sectoral Plan, wherein required civil amenities have been earmarked by CIDCO. It is stated that it is not clear as to whether the said plots in Sector 12 and 12A in Ghansoli Node earmarked by CIDCO for use as 'Government of Maharashtra Sports Complex' were handed over by CIDCO to the Collector, Thane or to the Sports Authority of Government of Maharashtra. It is further stated that there were demands made by residents as well as local representatives to extend Municipal Sports Complex which is being developed at Plot No. 1, Sector 13 to the adjacent lands i.e. land measuring 19877.31 sq. mtrs. and land admeasuring 72066.75 sq. mtrs. forming part of Sector 12A. It is stated that the General Body of the Municipal Corporation adopted a Resolution No. 338 dated 23 September 2013 for reservation of the said additional land as extension to Sports Complex. The details of the said additional land are set out in the affidavit in tabular form.

29. It is next stated that a proposal to modify the CIDCO's Development Plan was initiated by Municipal Corporation and notice to that effect under Section 37 (1) of the Maharashtra Regional & Town Planning Act 1966 was issued on 4 December 2013 and published in the Maharashtra Government Gazette, with a view to invite suggestions and objections from general public. It is contended that after completing the procedure as envisaged under Section 37 of the Act, NMMC submitted that a proposal for modification of the development plan to the State Government vide letter dated 2 June 2014, for its final sanction under Section 37 (ii) of the Act. It is stated that as per such proposal of the Municipal Corporation, an area admeasuring 19877.37 sq. mtrs. on the Northern side and an area admeasuring 72066.75 sq. mtrs. on Southern side of the Government of Maharashtra Sports Complex, was proposed to be reserved for extension of municipal sport complex. It is contended that however, the Urban Development Department of the Government of Maharashtra rejected such proposal of NMMC vide its letter dated 9 July 2019 on the ground that the sectoral nodal plan of the CIDCO was not sanctioned by the Government of Maharashtra and therefore the proposal initiated by the Municipal Corporation was not in accordance with the provisions of Section 37 of the MRTP Act. The Government of

Maharashtra has further recorded that since the Municipal Corporation had taken up revision of sanctioned development plan, under which the Municipal Corporation may take cognizance of the modification proposal while preparing such development plan. It is next stated that the Municipal Corporation has already prepared a draft development plan under Section 26 of the MRTP Act and has placed the same before the General Body of the Municipal Corporation on 11 February 2019 for its approval. Thus, it is seen from the NMMC's affidavit that in the notice issued by the NMMC under section 37 of the MRTP Act, plot No.12A and the vacant plots on northern and southern side of the Government of Maharashtra Sport Complex, were shown for extension of the sport complex of NMMC.

Rejoinder Affidavit of the Petitioner

30. There are rejoinder affidavits filed on behalf of the petitioner to the aforesaid affidavits *inter alia* contending that the sports policy of Government of Maharashtra was floated in the year 2001. The affidavit also refers to a letter of CIDCO to the Town Planning Officer of NMMC *inter alia* recording of NMMC's letter seeking NOC for converting approximately 5750.50 sq. meter area from playground Plot No.22 admeasuring 11,626.51 in Sector 15, Airoli for social facility use, cannot be

granted, referring to the Maharashtra State Sports Policy of 2001. It is stated that such policy prohibits conversion of playground into any other use. It is stated that the policy clearly states that structures within the area earmarked for the playground should not be regularized at the cost of playground and in the event of any such conversion, due permission from Cabinet is required to be obtained. The contention is thus that the Maharashtra State Sports Policy 2001 was being meticulously implemented by the CIDCO and the same was also required to be implemented for the purpose of Government of Maharashtra Sports Complex, by not inviting bids and making allotment in favour of respondent No.5, when the plot was earmarked for Government of Maharashtra Sports Complex.

Reply affidavit on behalf of the State Government

31. Mr. Jitendra Bhople, Joint Director of Town Planning, Konkan Division, Navi Mumbai, has filed a reply affidavit on behalf of the State Government dated 9 February 2021. The affidavit does not specifically deny the case of the petitioner that the plots in question in Sectors 12 and 13 at all relevant times were earmarked (reserved) for Government of Maharashtra Sports Complex and which is adjoining to the sports complex to be developed by the NMMC. The affidavit *inter alia* states that the

CIDCO was entitled to prepare its nodal plans by earmarking the plots as CIDCO being the New Town Development Authority, it was given flexibility to allocate the land use of plots which are already earmarked for a particular purpose to different land use as may be needed by the CIDCO from time to time. It is further stated that for change of user of any plot in Nodal Plan, CIDCO was not required to take permission from the State Government, hence changes in a particular land use did not amount to modification in the reservation, from the development plans as contemplated under the MRTTP Act. It is stated that in the intervening period the NMMC was constituted by the State Government on 17 December 1991 under Section 3 of the Bombay Provincial Municipal Corporation Act, 1949 for the local areas of the revenue villages to be comprised within the jurisdiction of the municipal corporation, were shown in the Schedule annexed to the said notification, whereas the CIDCO was appointed as New Town Development Authority under sub-section 3A of Section 113 of the MRTTP Act and the villages comprised in the new town have also been shown in the Schedule annexed thereto. It is stated that the CIDCO had the flexibility to prepare “Nodal Plan” by earmarking tentative uses and for that sanction from Government was not required, as the CIDCO was given flexibility to make change in use of such

earmarked plots from time to time as would have been deemed fit by the CIDCO. It is stated that the subject area of 20 acres in Ghansoli Node was earmarked for the Government Sports Complex by the CIDCO was also a part of the nodal plan of the CIDCO and the same was never sanctioned by the Government and thus, it was open for the CIDCO to make change in the use of that plot without seeking permission from the Government. It is also confirmed that the State Government did not approve the NMMC's resolution No.338 dated 23 September 2013 to modify the CIDCO's development plan. It is therefore submitted that appropriate orders may be passed by this Court.

Reply Affidavit of Respondent No.8

32. Shri. Pradip Sampatrao Indulkar, respondent No.8 has filed this affidavit dated 16 March 2021 supporting the petition. He has stated that respondent No.8 was instrumental in framing and formulating the Sports Policies of the Government of Maharashtra annexed at Exhibit D and E to the petition. He has stated that he was pained by the non-compliance of the said policy by CIDCO. He has stated that the land subject matter of petition was earmarked for Government Sports Complex pursuant to the said policies of the State Government. He has summarized the Sport Policy

of 2001 of the State Government to contend that under the Government Resolution dated 24 February 2003, CIDCO reserved 17 hectares plot in Sector 12 and 13 for NMMC sports complex and 8 hectare plot for the Government of Maharashtra Sports Complex in Sector 12, Ghansoli, Navi Mumbai. It is his contention that CIDCO is not a profit making body and cannot demand exorbitant lease rent and premium from local body which it has sought from NMMC to allot the land. It is his contention that on account of the red-tapism, India has not fared as well as it should have, in international sports, despite having such large population. He has stated that our sport persons, young children do not get enough facilities, infrastructure, training, coaching and financial support from the Government and speaking internationally even the smallest of the countries have very good infrastructure in terms of ground, astroturf and other equipments. It is contended that children are encouraged at a very young age, trained, nurtured and are extended all facilities which is absent in several areas of our country. It is next contended that sports is one of the lesser priorities of the Government, with the result our success tally, in terms of medals at Olympics, especially in individual events, is abysmal in comparison with other countries and for such reason, the sports policy was framed, however, it is stated that the same is ignored and has been kept in

a deep freezer both by the State Government and CIDCO. He has commented on the CIDCO's arbitrary policy of change of user of plot for the purpose as the one in question. He has also contended that there was an arbitrary decision taken in favour of respondent No.5 to make allotment whereas the other bidders who have submitted their bids, had withdrawn their bids knowing that the land in question was earmarked for Government of Maharashtra Sports Complex. It is accordingly submitted that the petition be allowed.

Additional Affidavit in Reply of Respondent No.5

33. There is an additional reply affidavit filed on behalf of respondent No.5 of Mr. Devang Vinod Trivedi, *inter alia* contending that by Government Resolution dated 26 March 2021 the State Government has shifted the proposed regional sport complex from Ghansoli, Navi Mumbai to Village Nanore, Taluka Mangaon, District Raigad for the reasons stated therein and the said land is already in possession of the Government and that appropriate budget has also been enhanced by the State Government for development of the regional sports complex at such place which was released by a Government Resolution dated 31 March 2021, the budget for which is proposed at Rs.2400 lakhs. It is stated that such land is a suitable land than the land reserved at Ghansoli, Navi Mumbai, and for

such reason nothing would survive in the petition. There are other contentions as raised on the provisions of the MRTP Act, the contention being that CIDCO was within its authority to make allotment of land in question to respondent no.5 which is reiteration of the contentions as raised in the initial reply affidavit filed on behalf of respondent No.5.

Affidavit on behalf of Respondent No.7 (Deputy Director of Sports)

34. An affidavit is filed by one Mrs. Snehal Sampat Salunkhe, Deputy Director, Sports and Youth Services, Mumbai Division, Mumbai on behalf of respondent No.7. The affidavit comments about the Maharashtra State Sports Policy, 2001 to say that under such policy the Government introduced a concept of various Sports Complexes at different levels. It is stated that to implement the said scheme, Government Resolution dated 24 February 2003 was issued by the Government of Maharashtra, whereunder it was proposed to create the District Sports Complex and Divisional Sports Complex of National & International Standards. As to what would be the sport activities which would be undertaken and nurtured at such sport complexes is set out in paragraph 5 of the said affidavit. It is further stated that a further sports policy was declared in the year 2012 wherein it was decided to establish 'Greater Mumbai Sports Authority', which will look after the creation of ward wise sport complexes

and district sports complexes at Mumbai City, Mumbai Suburban and New Mumbai. It is contended that since there was dispute pertaining to land at Ghansoli, the Government of Maharashtra by Government Resolution dated 26 March 2021 granted administrative approval for construction of Divisional Sport Complex Konkan Division at Nanore Taluka Mangaon, District Raigad.

35. It is stated that under the policy of the Government, the Sport Complexes shall be selected from the places which are convenient for transportation and administration for citizens and persons concerned. It is stated that the land at Sector No 12 and 12 A, Ghansoli, Mumbai if developed as sports complex, it can fulfill the need of growing populations in the large adjoining areas as set out in paragraph 11 of the affidavit. The following contents of the affidavit are required to be noted which read thus:

“11. I say that, as per the policy of the Government, the Sport Complexes shall be selected from the places which are convenient for transportation and administration for citizens and persons concerned. The land at Sector No 12 and 12 A, Ghansoli, Mumbai if developed as sports complex, it can fulfill the need of growing populations in the areas of Municipal corporations such as Thane, Navi Mumbai, Kalyan-Dombivali, Mira-Bhyandar, Vasai – Virar, Ulhasnagar & Panvel and the same is convenient for the transportation to Mumbai and Konkan Division and also helpful for the International Sports Events which will be hosted in future in the State of Maharashtra.

12. I say that, in view of above policy of Government, the land which is subject matter of the present Petition, can be developed for the creation of Sports Complex of International Standard. I say **that for establishing various sports playground such as Astroturf hockey ground, playground for football, handball, kabaddi, kho-kho, basketball court, tennis court, shooting and swimming pool etc, the authority required huge land to satisfy the requirement of Sports Grounds of International Standards.**

13. I say that, the development of the said plot for sports complex of international standard is possible with Joint Venture with New Mumbai Municipal Corporation and CIDCO. However, there is no correspondence from the CIDCO regarding allotment of plot at Sector No. 12 and 12A, Ghansoli, Navi Mumbai, to this respondent which was earmarked for Regional Sports Complex.

14. I further say that, the All Indian Football Association has hosted FIFA U-17 World Cup, 2017, AFC Women's Asian Cup, 2022 and FIFA U-17 Women's World Cup, 2022 at New Mumbai. Considering the organization of the International World tournaments, it is necessary to develop supplementary stadiums/sports complexes at New Mumbai for the catering needs of the International Events. **Therefore this Respondent by its letter dated 24.11.2022 requested to handover the land allotted for the sports department free of cost. Hereto annexed and marked as Exhibit-E is the copy of the said letter dated 24.11.2022."**

(emphasis supplied)

36. It is, therefore, prayed that appropriate orders be passed.

Additional Affidavit in Reply to the amended petition filed by CIDCO

37. There is an additional affidavit in reply to the amended petition filed on behalf of CIDCO of Mr. Venugopal V., Chief Planner dated 27 March 2023 reiterating the contentions as urged in the earlier affidavit and denying the case of the petitioner in the amended petition as also the

contentions as urged on behalf of respondent No.8, and supporting its decision to allot the plot in favour of respondent no.5.

38. A rejoinder affidavit is also filed on behalf of the petitioner to such affidavit. Also there is further affidavit dated 28 July 2023 filed on behalf of respondent No.5 to bring the subsequent developments on record.

39. An additional reply affidavit on behalf of respondent Nos.2 and 6 is filed by Mr. Aseemkumar Gupta, Principal Secretary (UD-1), Urban Development Department, Mantralaya, Mumbai, which is a common affidavit filed in pursuance of the directions of this Court *inter alia* placing on record the outcome of the joint meeting which was held in pursuance of the order dated 14 July 2023 passed by this Court. The significant statements in affidavit are contained in paragraphs 3 to 6 of the said affidavit which read thus:-

“3. I say that in the said meetings, a) it was decided that the Sports Complex being proposed on the said land of CIDCO is of International level. Cost of the development is going to be recovered by commercially exploiting 1/3rd of the land in question. **However, cost of the land itself has not been factored in the total cost of the project and that is about 2500/- crores as per CIDCO's expectation from sale. Thus effectively the proposal is of an International Stadium on the 2/3rd of land for a cost of 2500/- crores for the public (whether it is borne by N.M.M.C., State Government or CIDCO, this is public money).** The issue then is whether to have an International Sports Complex at this cost and

if yes, then where in the State. It is clear that State should decide as a policy about various levels of Sports Complexes from City to District to Division to State to National to International levels - and various right locations for these. State must also, as a policy, decide total amount of public money that may be allocated to these complexes. Indirectly by asking CIDCO to part away with the land without any compensation for the project inherently means that an International level Sports Complex is desired by a City at the cost of 2500/- crores without any deliberations and policy at the State level. City has a duty to make a city level sports complexes of required number to its citizens but may also aspire to have higher level of Sports Complexes as it adds to city's stature and attraction, while adding facilities for its own citizens of higher standard. This however cannot be at a cost of some other Organization. Thus N.M.M.C. must decide whether it wishes to have an International standard of Sports Complex at the cost of 2500/- crores and if yes, then it must make value of the land available to CIDCO. If N.M.M.C. does not want to take up cost fully of the land it may request State Government for the funds and State Government (Sports Department) may decide on the basis of its policy. CIDCO has already made available spaces for sports as per the norms (and more) and also the 14.5 Ha of land just adjacent to the said land is handed over to N.M.M.C. for Sport Complex thus cannot be asked to transfer this land free of cost to N.M.M.C. for the sports complex. If N.M.M.C. does not show interest in purchase of land at market value from CIDCO in a reasonable time frame, CIDCO should be allowed to proceed with its own plan.

b) It is further decided that Whatever may be the final utilization of the plot, third party rights already created towards M/s. Progressive Group must be respected. Thus CIDCO should relocate / realign their plot, if necessary, as per mutual consent with Respondent No.5 only, so that whatever is the final use to which the land is put to, is not affected adversely by location of this plot. Representatives of Progressive Group agreed to the suggestion.

c) Thus it was decided that CIDCO would realign or relocate on the same road in sector-12, Ghansoli free from any reservation

of proposed N.M.M.C. draft DP reservation Plan, Encroachment, CRZ, Wetland, Mangroves and Forest Reservation etc. and should not come in purview of section 46 of M.R.T.P. Act to grant C.C. after realign or relocate.

d) Issue of authority to put reservation by N.M.M.C. on undeveloped ownership lands of CIDCO was discussed in detail. There should be no ambiguity about the authority of various Organizations like N.M.M.C. and CIDCO about putting and developing reservations on various lands in CIDCO area. This should be done on priority by Urban Development Department at the earliest.

4. I say that thereafter, this Hon'ble Court by Order dated 24.08.2023 expressed its displeasure about the incomplete stand taken by both the Departments in above matter and directed both the Departments to place on record an affidavit, as to what is the decision of the State Government in the light of the conclusions drawn in the said meetings held on 24th July, 2023 and 9th August, 2023 held under the Chairmanship of the Principal Secretary Urban Development Department in pursuance of Court Orders.

5. I say that thereafter, on 26.09.2023, a joint meeting was conducted under the Chairmanship of the Hon'ble Deputy Chief Minister (Finance & Planning). I say that in the said meeting dated 26.09.2023, issue regarding the said plot was resolved in finally. **It was decided that the portion of 5 acres out of the CRZ affected Land shall be handed over by CIDCO to the Navi Mumbai Municipal Corporation free of charge. As the CRZ affected land is in both the Sector-12 and Sector-12A Ghansoli, therefore the said area of 5 Acres of the CRZ affected Land is required to be identified by the CIDCO (by excluding the Plot No. 4 in Sector-12, Ghansoli allotted to the Respondent No.5) and be given to the NMMC free of charge and it was further decided that the Navi Mumbai Municipal Corporation shall use the said 5 acres of CRZ affected land along with earlier allotted plot No.1 of 36 acres, Sector-13, Ghansoli for building sports complex of International Level.** It was decided that Navi Mumbai Municipal Corporation will develop the sports complex at its own cost. It was decided that the School Education and Sports

Department should provide the technical assistance to the Navi Mumbai Municipal Corporation. It was also decided that the CIDCO would be free to commercially utilize the remaining 37 acres of lands out of 42 acres land in Sector- 12 and/or Sector- 12A, Ghansoli, Navi Mumbai. It is also decided that, the Regional Sports Complex at Nanore, Taluka Mangaon, District Raigad shall be constructed by combining Taluka Level Sports Complex and Konkan Regional Sports Complex. I say that the said meeting was attended by the Principal Secretary of the Urban Development Department, Principal Secretary of School Education and Sports Department, Managing Director of CIDCO and Commissioner of Navi Mumbai Municipal Corporation. Copy of minutes of the meeting dated 26.09.2023 is annexed hereto and marked as Exhibit-2.

6. I say that accordingly, now the following steps will be taken in the matter:

i. **CIDCO will allot 5 acres area out of the CRZ affected land (after excluding the Plot No.4 allotted to the Respondent No. 5) in Sector-12, Ghansoli and/or of the CRZ affected land in Sector-12 A, Ghansoli to the Navi Mumbai Municipal Corporation at free of charge.**

ii. Navi Mumbai Municipal Corporation shall develop International sports complex in the total area comprising of 36 acres land (already allotted by CIDCO) and the said 5 acres portion of CRZ affected land as mentioned above.

iii. Navi Mumbai Municipal Corporation shall develop International sports complex on the said plots of land at its own cost. The School and Education and Sports Department should provide technical to the Navi Mumbai Municipal assistance Corporation.

iv. The CIDCO shall be free to commercially utilize remaining area of 37 acres of the lands in Sector-12 and/or Sector-12 A, Ghansoli, Navi Mumbai.

v. **The Regional Sports Complex at Nanore, Taluka Mangaon, District Raigad shall be constructed by**

combining Taluka Level Sports Complex and Regional Sports Complex.

vi. In case the Plot No. 4, Sector-12, Ghansoli allotted to the Respondent No.5 (M/s. Progressive Homes) will be needed to be realigned/ adjusted by the CIDCO i.e. Respondent No.1, then it should be acceptable realignment/ adjustment to Respondent No.5 and it should be relocated/realigned on the same road and in the Sector-12, Ghansoli and such realigned plot should be free from any reservation of proposed N.M.M.C. draft DP Reservation Plan, Encroachment, CRZ, Wetland, Mangroves, Forest reservation, etc. As per Section 46 of the Maharashtra Regional and Town Planning Act, 1966, while issuing the commencement certificate, the Planning Authority should ensure that there is no hindrance in the use of the such realigned plot according to the purpose and use for which the said plot has been allotted by the CIDCO.”

(emphasis supplied)

Rejoinder Affidavit of the petitioner to the State’s additional reply affidavit

40. On behalf of the petitioner, a rejoinder affidavit to the State Government’s affidavit has been filed of Mr. Kaushal Jadia dated 10 October 2023, disputing the contentions as contained in affidavit of Mr. Aseemkumar Gupta, Principal Secretary, contending that such affidavit as filed is totally one sided and not as per the suggestions of this Court to bring about an amicable resolution of the dispute, and that none of the considerations are shown in the affidavit in regard to the Government Policy, CIDCO land pricing & Land Disposal Policy etc. in filing of such

affidavit. It is stated that the affidavit does not take into consideration the overall suggestions which were made on behalf of the petitioner in the meeting. It is stated that despite public cause being pursued by the petitioner, he was not invited in the meeting which was held under the Chairmanship of Deputy Chief Minister (Finance and Planning) wherein all stake-holders were invited except the petitioner. The affidavit caters to personal and private interest, is the contention of the petitioner. It is contended that the contention about the land cost is not correct and that as per the 2003 policy the land ought to have been handed over by CIDCO to the Sports Department “free cost”. It is stated that if at all the cost of the land was to be calculated, it ought to have been calculated on the basis of Government approved Land Pricing Policy of CIDCO of 2007. It is contended that based on such policy the land cost for an area of 42 acres worked out to around Rs.44 crores as per even today’s ready reckoner rate. It is contended that alleged cost of Rs.2500 crores has factored in the total cost of the project as allegedly made in the affidavit. There are several other contentions which are raised to contend that systematically the development of the Sports Complex at Ghansoli is being defeated.

41. There is also an affidavit of Respondent No.8 in response to the affidavit filed on behalf of respondent No.2 dated 11 October 2023, to contend that in filing such affidavit, respondent No.1 as also respondent No.2 have acted in gross violation of the Land Disposal Policy and have illegally and fraudulently allotted portion of prime land designated for public purpose in gross violation and contravention of Rule 4 of Navi Mumbai Disposal of Land Rules, 1971, as also there is a breach of Rules of Business, by changing the reservation for sports complex without cabinet approval. It is contended that the settled law that public interest is paramount, which needs to be protected over private interest, has no recognition in the reply affidavits.

Further Affidavit in Reply on behalf of State Government

42. There is further affidavit dated 17 October 2023 filed on behalf of respondent No.6 of Mr. Ranjit Singh Deol, Principal Secretary, School Education and Sports Department, Mantralaya, Mumbai, *inter alia* stating that CIDCO by its letters dated 4 February 2003, 19 May 2004, 2 February 2007 and 31 October 2007, informed the Sports Department that grant of land free of charge was not possible for CIDCO and the Sports Department could take the said land only after paying price as per

Pricing Policy of CIDCO. It is stated that the Sports Department could not acquire the land from CIDCO at the cost, as expected by CIDCO, hence, it appears that CIDCO proceeded to dispose of the said land. It is stated that in the meantime the State Government decided to construct the Divisional Sports Complex for Konkan Region at Village Nanore, Taluka Mangaon, District Raigad instead of Ghansoli, Navi Mumbai. It is also stated that by letter dated 24 November 2022, the State Government requested the CIDCO to complete the formalities in handing over the said plot of land to the Sports Department, however, such letter was written without referring to the correspondence of CIDCO and CIDCO had reiterated its stand that the said plot could not be given free of costs. It is stated that considering the difference of opinion between Department of School Education and Sports and Urban Development Department, meeting of all the concerned took place on 24 July 2023 and 9 August 2023 and the Principal Secretaries of both the departments were present. It is stated that such meeting concluded with a finding that CIDCO would be entitled to charge sale price for the purpose of the concerned plot. It was also decided that the Navi Mumbai Municipal Corporation should pay the cost of such plot and if Corporation would not be in a position to pay, Sports Department should acquire the said plot out of its budgetary

provision and value of the said plot was quoted at Rs.2500 crores by CIDCO. It is stated that in view of such different stands taken by both the Departments, another meeting took place on 26 September 2023 under the Chairmanship of Deputy Chief Minister and Finance Minister, wherein the Minister of Sports and Minister of Women and Child Development and Principal Secretaries of both the Departments were present. It is stated that in such meeting the issue was resolved by providing that the CIDCO would provide an area of 5 acre out of the entire area of 42 acre, to the NMMC for the purpose of development of International Level Sports Complex, by using adjacent plot of 36 acre already granted to NMMC which would be provided free of charge and CIDCO would be free to commercially utilize remaining 37 acre out of the 42 acre of plot which was to be utilized for Government Sports Complex. It was also confirmed that the development of Regional Sports Complex at village Nanore, District Raigad would be achieved. It is stated that considering the overall situation, the Sports Department has decided to give up the initial proposal of developing sports complex in 42 acre plot at Ghansoli and such decision was taken in the larger interest and considering that the NMMC now has granted larger area of 36 acre plus 5 acre for the construction of international level Sports Complex.

Further Affidavit on behalf of State Government

43. There is further affidavit of Mr. Ranjit Singh Deol, Principal Secretary, School Education and Sports Department, Mantralaya, Mumbai, dated 19 October 2023 clarifying as to how the decision of giving up the proposal for construction of Sports Complex at Ghansoli was arrived at. It is stated that by the Government Resolution dated 26 March 2021 it was decided to make available the land admeasuring 24 acres for construction of Divisional Sports Complex at Survey No. 130 at Village Nanore, Taluka Mangaon, District Raigad and estimated cost of Rs.8344.16 lakhs has also been approved, subject to availability of applicable grant. It is stated that the said land admeasuring 24 acres at Survey No. 130 was actually taken over and transferred in the name of Divisional Sports Complex, Executive Committee and the grant of Rs. 240 lakhs has been disbursed by the State Government to the Executive Committee on 31 March, 2021. It is stated that further grant of Rs. 1,068.20 lakhs has been disbursed by the State Government to the Executive Committee on 30 March, 2022. It is stated that the State Government is taking all due steps for construction of the Divisional Sports Complex at Village Nanore, Taluka Mangaon, District Raigad. It is further stated that as far as the proposed International Sports Complex at Ghansoli is concerned, the Sports Department will provide all

requisite technical assistance to NMMC, for the purpose of construction of International Sports Complex at Ghansoli, Navi Mumbai.

Additional Reply on behalf of NMMC

44. There is an additional affidavit in reply on behalf of respondent No.3 by Mr. Dilip Nerkar, Deputy Municipal Commissioner, (Estate), NMMC, dated 19 October 2023 to contend that additional 5 acres of land, to be allotted free of cost by the CIDCO would be utilized only for establishing the International Level Sports Complex and for no other purpose.

45. It is on such backdrop, we have heard learned Counsel for the parties.

(D) Submissions on behalf of the petitioner

46. Mr. Indrajeet Kulkarni, learned Counsel has made submissions on behalf of the petitioner to contend that the decision of the State Government to not pursue the allotment/taking over plots in Sector Nos. 12 and 12A at Ghansoli, for the purpose of Government International Sports Complex and the decision of purportedly shifting the sports complex at Village Nanore, Taluka Mangaon, are arbitrary and illegal. It is submitted that the reasons which are set out in the affidavit of Mr.

Aseemkumar Gupta for the first time stating that CIDCO would be required to pay exorbitant amount by the State Government, is a complete eye wash. It is submitted that in fact Shri Ranjit Singh Deol, Principal Secretary, Sports Department has categorically stated that CIDCO had quoted the value of land to be utilized by the State Government at Rs.2500 crores, is unconscionable and in fact a falsity, as there is no document more so as per law where the CIDCO had sought for such exorbitant amount from the State Government. It is his submission that such figures are being set out to prejudice the Court and wholly without any basis. It is his submission that in fact such land ought to have been handed over to the State Government free of cost as per the Sport Policy of the State Government as the same was earmarked for such purpose in the year 2003.

47. It is next submitted that it is unthinkable that at a place 150 km. away from the urban agglomeration any sports complex could be developed, as necessarily the sport activities are required to be developed in the heart of the urban agglomeration like Ghansoli in the immediate proximity of not only Mumbai Municipal area but also Navi Mumbai Municipal area, Kalyan-Dombivali Municipal area, Ulhasnagar Municipal area, Mira-Bhayander Municipal area and with the availability of all modes

of transportation and other facilities as stated in the affidavit of Mrs. Snehal Sampat Salunkhe filed on behalf of State Government/Deputy Director of Sports. It is submitted that it cannot be that children travel at a place which is 150 km away for the purpose of availing facilities of sports activities. It is thus submitted that this is a case where not only the CIDCO but also the State Government has acted illegally and more particularly in taking a decision that the land admeasuring 20 acres earmarked for the Government Sports Complex, which would aid the NMMC Sports Complex, would be now available to the CIDCO for commercial exploitation. It is submitted that at all material times, the said land was earmarked and available for allotment for the Government Sports Complex. It is submitted that the CIDCO's contention, as supported by the State Government and respondent no. 5, that as the land has been allotted at Village Nanore, the petition has become academic, is also untenable as all such decisions are taken during the pendency of the petition and the decisions are illegal and subject matter of challenge in the present petition. It is submitted that the decision of this Court in Public Interest Litigation No.22 of 2021 in the case of **Nishant Karsan Bhagat vs. The City and Industrial Development Corporation of Maharashtra Ltd. &**

Ors.¹, although would recognize the rights of the CIDCO, in the present case the same may not be applicable insofar as the land was earmarked by CIDCO for Government sports complex. In support of his contention, reliance is placed on the decision of the Supreme Court in **M/s. Popcorn Entertainment & Anr vs City Industrial Development Corpn.**².

48. Mr. Kulkarni has made extensive submissions drawing our attention to the record to submit that looked from any angle, the decision of CIDCO not to allot the land at Ghansoli for Government sports complex and the decision of State Government in not taking such land and shifting the Government sports complex to Village Nanore are patently illegal. He has also drawn our attention to various inconsistencies in the affidavits which are filed on behalf of the Sports department, State Government and CIDCO to submit that this is a classic case where each of these authorities are attempting to misguide the Court so as to support the cause of private exploitation of the land earmarked for a public purpose.

(E) Submissions on behalf of Respondent no. 8 supporting the petitioner:-

49. Ms. Sangaliker, learned Counsel appearing on behalf of respondent No.8 has supported the petition. She has contended that respondent No.2

1 2022 SCC OnLine Bom 1758

2 (2015) 1 SCC 558

– State Government has violated the Government Resolution dated 24 February 2003 and 26 March, 2003 which were for establishment of Sports Complex in each revenue region, taluka and district level, under which sport complexes of international standard were to be developed by allotment of land free of occupancy price and free of revenue for Mumbai region. It is contended that CIDCO, contrary to such government decision, had illegally changed the user of the plot earmarked for the Government Sports Complex and allotted a portion of plot designated for Government Sports Complex to respondent No.5 without invitation of tender. She submits that tenders were invited for Plot Nos. 1, 2, 4 and 5 as shown in the plan and it was only one person who bid for plot no.4 which was respondent No.5 which came to be allotted to him. It is submitted that however, some private negotiations took place in November, 2016 between CIDCO and respondent no.5 and a portion of Plot No. 3 was mischievously numbered as Plot No.4, which has the same dimensions as the plot for which tender was invited, being the land which was designated for the Government Sports complex, being illegally allotted to Respondent no. 5 without following the well settled principles of law as laid down by the Supreme Court. It is contended that the user of plot No.3, which was not listed in the tender, was illegally changed on the day tender was

opened i.e. on 1 September 2016 without there being the required coram of Officers. It was submitted that it was a premeditated decision in furtherance to allot this Plot No. 4 carved out of Plot No.3 to Respondent No.5. It is submitted that all such actions depict favoritism, arbitrariness on the part of Respondent Nos. 1 and 2. It is next submitted that despite NMMC's resolution to amalgamate and acquire additional land for establishing a sports complex of international standard, respondent No. 1 has purportedly claimed a heavy price for allotting the land which ought to have been allotted free of occupancy price, which is contrary to sports policy of allotting land free of cost to the State Government. It is submitted that CIDCO is constituted by the State Government and now CIDCO is making such claim, which is totally illegal and contrary to the policies of the State Government which are binding on CIDCO. It is submitted that it is on false premise, respondent No.2 has contended that there was lack of enough space and therefore, it was thought appropriate to transfer the Government Sports Complex to Village Nanore. It is submitted that what has actually happened is that instead of 20 acres being earmarked, 24 acres at a remote place has been allotted. It is submitted that in fact at Village Nanore the State Government had already established a sports complex but it is not functional for several years. It is

submitted that the latest photographs of Nanore Sports Complex present a different picture. It is submitted that the State Government can issue directives under Section 154 to ensure that the provisions of law are obeyed and it cannot be that the CIDCO would act in breach of such Government orders. It is contended that for commercial reason, CIDCO has changed the user of Plot No.3 designated for Government Sports Complex to future development. It is submitted that respondent No.1 is not a commercial concern and land acquired and entrusted to it cannot be permitted to be parted with by the sole consideration of money making as held by the Supreme Court in **Padma Vs Hiralal Motilal Desarda & Ors.**³. It is next submitted that Respondent Nos. 1 and 2 have sought to compromise public interest to protect private interest. It is submitted that the affidavit of the State Government dated 5 October 2023 and the minutes of the meeting as annexed to the same clearly mentioned that private interest needs to be protected. In support of such contention reliance is placed on the decision of the Supreme Court in **CIDCO vs. Platinum Entertainment and ors.**⁴.

3 (2002)7 SCC 564

4 Civil Appeal No.9264 of 2014 decision dt.26 September 2014.

(F) Submissions on behalf of Respondent no. 5

50. Mr. Jahagirdar, learned senior counsel for respondent no.5 has made extensive submissions opposing the petition. At the outset, Mr. Jahagirdar has drawn our attention to the reply affidavits filed on behalf of respondent no.5. His primary contention is that CIDCO was within its authority to issue the tender in which respondent no.5 had participated and was the successful bidder in regard to the allotment of plot no.4. It is also his submission that respondent no.5 having paid all the amounts for allotment of the plot and the possession being handed over, the petitioner would not have any legal right to question the lawful allotment of plot in question to respondent no.5. It is his submission that the entire case of the petitioner proceeds on the ground that as if there was a development plan reservation in respect of the larger land, out of which the plot as allotted to respondent no.5 has been culled out, Mr. Jahagirdar has drawn our attention to the provisions of the MRTP Act to contend that the case of the petitioner on the basis of the CIDCO's plan which is not the development plan within the meaning of the MRTP Act, is wholly misconceived. It is his submission that for the petitioner to succeed in the case, is required to show that the plot of land as allotted to respondent no.5 was part of a statutory reservation and such reservation was sought to be

taken away by the CIDCO in the manner not known to law by inviting bids and allotting the plot to respondent no.5. Mr. Jahagirdar, in supporting his submission that the CIDCO was also within its rights to make allotment of plot, has relied on the decision in **Nishant Karsan Bhagat** (supra). It is also his submission that the petitioner's argument, is in fact against the policy of the State Government which has re-called its decision to have Government Sports Complex at Ghansoli, Navi Mumbai by shifting the same to Village Nanore, Taluka Mangaon, District Raigad. It is next submitted that the rights of respondent no.5 in no manner can be affected for the reason that the petitioner have never challenged the tender issued by the CIDCO in which respondent no.5 had participated and the allotment made in favour of respondent no.5. Mr. Jahagirdar has accordingly prayed for dismissal of the petition.

(G) Submissions on behalf of Respondent No.3-NMMC

51. Mr. Dande, learned counsel has made submissions on behalf of respondent no.3-NMMC. It is Mr. Dande's submission that the land adjoining to the land reserved for the Government Sports Complex admeasuring 36 acres and the additional land of 5 acres which would be granted to the NMMC by the CIDCO free of cost, would be developed for a Sports Complex by NMMC. Mr. Dande has not disputed that the land

in respect of which the petitioner is ascertaining public rights, was in fact reserved as a contiguous land proposed for a Government Sports Complex and that together with the Government Sports Complex and NMMC Sports Complex, sports facilities were conceived and were intended to be developed.

(H) Submissions on behalf of CIDCO

52. On behalf of the CIDCO, Mr. Gangal, learned counsel has made detailed submissions. Mr. Gangal has drawn our attention to reply affidavits filed on behalf of the CIDCO which he reiterates. It is his submission that the CIDCO was within its authority and powers as conferred under the MRTP Act to take a decision to invite the tender to allot plots from the part of the land as reserved for sports complex under which respondent no.5 has been allotted plot no. 4 in Sector No.12A. It is submitted that in law it is not correct for the petitioner to contend that the land which is claimed to be reserved for sports complex was in any manner reserved under any development plan. It is submitted that the plan, which was prepared by the CIDCO at the relevant time, was only indicative of the land uses and zones and it did not designate specific plot-wise reservations as conventionally undertaken in preparing a development

plan. It is hence submitted that under such plan prepared by CIDCO for the Navi Mumbai area, plots were only earmarked and not reserved. It is further submitted that such plans could not have been labelled by the petitioner as statutory plans and hence, it was not necessary for any MRTP procedure to be followed before the CIDCO could take a decision to invite tenders in respect of part of the land under which respondent no.5 has been allotted plot no.4. Mr. Gangal has submitted that the CIDCO accordingly was within its authority to have flexible policies in regard to the change of user of plot and such earmarking of the land could be changed, as per decisions being taken by the CIDCO from time to time and in accordance with the regulations governing such allotments. Mr. Gangal has submitted that the Government of Maharashtra had not corresponded with CIDCO in regard to the allotment of Ghansoli land for the purpose of Government Sports Complex for which the said land is earmarked and hence insofar as CIDCO is concerned, it could be presumed that the Government of Maharashtra no more intended to have such land for Government Sports Complex. It is also his submission that such contention of CIDCO would also stand supported by subsequent decision taken by the Government of Maharashtra, to have a sports complex at Village Nanore, Taluka Mangaon, District Raigad. It is hence

his submission that no relief ought to be granted to the petitioner as public purpose of setting up of sports complex is already being achieved by the State Government at Village Nanore, as per recent G. R. dated 26 March, 2021.

53. Mr. Gangal has also submitted that the decision of the Government to have sports complex at Village Nanore, Taluka Mangaon, District Raigad is also for the reason that it has been held appropriate by the State Government to avoid the expenditure the State Government would be required to incur in availing the Ghansoli plot of land as the cost of Ghansoli plot of land as per CIDCO's pricing policy was quite substantial., as also pointed out in the affidavit filed on behalf of the State Government. Mr. Gangal in this context has also drawn our attention to the reply affidavit in regard to the pricing policy of the CIDCO.

54. Mr. Gangal has also submitted that insofar as the petitioner's challenge to the decision of the CIDCO to allot Plot No.4 to respondent No.5 needs to be rejected on the ground that the petition needs to be held to be barred by delay and laches as process of such allotment had commenced on 2016 and the present petition came to be filed on 23 January 2019. In support of this submission, Mr. Gangal has placed

reliance on *Bombay Dyeing & Mfg. Co. Ltd vs Bombay Environmental Action Group & Ors.*⁵ and more particularly paragraph 341, as also the decision of the Division Bench of this Court in *Sanjaykumar Damodar Surve Vs. State of Maharashtra through Secretary & Ors.* rendered by a coordinate Bench of this Court in Public Interest Litigation No.119 of 2022, dated 13 October 2022.

(I) Submissions on behalf of the State Government

55. Mr. Samant, learned Addl. GP has also made submissions. He has supported the impugned decision of the State Government to give up the intention of the State Government to have a Government Sports Complex at Ghansoli on the land as earmarked by CIDCO and subject matter of the present proceedings. He has also contended that the CIDCO was within its rights to adopt an appropriate approach and frame policies in regard to the disposal of the lands and in the light of various directions which were issued by the State Government in exercise of powers under Section 154 of the MRTP Act. He would accordingly submit that the Court needs to accept the contention as urged on behalf of the State Government to have a Sports Complex at Village Nanore, Taluka Mangaon, District Raigad. He has accordingly prayed that the petition be dismissed.

5 2006(3) SCC 434

56. Mr. Kulkarni, learned counsel on behalf of the petitioner and Ms. Sanglikar on behalf of respondent no.8 have advanced submissions in rejoinder contesting the submissions as urged on behalf of the other respondents.

57. We have heard learned counsel for the parties and with their assistance, we have perused the record.

(J) REASONS AND CONCLUSION:-

58. On the aforesaid conspectus, the questions which would arise for our consideration in the present proceedings are:-

- i. Whether the State Government is justified to give up the land in question earmarked in the year 2003 for a Government of Maharashtra Sports Complex at Ghansoli, Navi Mumbai ?
- ii. Whether such land at Ghansoli needs to be developed for the public purpose of setting up the Government of Maharashtra Sports Complex, and not to be utilized for any other purpose ?
- iii. Was it legal and appropriate for the CIDCO to invite a public tender to allot land which formed part of the land earmarked for the Government Sports Complex and in allotting part of the land to respondent no.5 ?

iv. Whether the decision of the State Government to set up a Sports Complex at Mangaon, District Raigad in lieu of the proposed sports complex at Ghansoli, Navi Mumbai is legal and valid?

59. The following discussion would aid the answers to the above questions.

60. As the genesis of the cause relates to the year 2003, at the outset, we may observe it to be an undisputed position, that the Government of Maharashtra under the Government order dated 24 February, 2003 ordained to activate the comprehensive “Sports Policy” of the year 2001, under which sports complexes were to be set up *inter alia* at district places.

It is necessary to note the said Government order, which reads thus:-

“Maharashtra State Sports Policy, 2001
available for sports packages regarding
use of land for commercial purposes

Government of Maharashtra

Department of Social Justice, Cultural Affairs, Sports and Special
Assistance,

Ruling no. RKD-2002/PK.121 ZKUS-1,
Mantralay Vistar Bhavan, Mumbai-400 032

Dt. 24th February, 2003

Preface:-

As per the Maharashtra State Sports Policy, 2001, “Every village to have play ground” similarly considering Taluka as one unit, Government has approved a proposal of providing every Taluka to have one “Taluka Sports Complex” with minimum facilities for sports development. Similarly, in order to provide minimum national and international standard sports facilities at the District

level and also to provide minimum international standard sports facilities at the Divisional level, Taluka Sports Complex, District Sports Complex and Divisional Sports Complex are being set up in the entire state. It is expected that the government land required for sports complex is to be acquired from the Revenue Department for proposed devolvement of the sports complex and transferred to sports complex committee for expected development of sports complex. While such sports complex being created, to meet huge investment for development as well as expenditure for day to day maintenance, wherever there is potential for commercial development at such place land to be used for commercial purpose to generate funds for establishment of sports complex and expenditure for maintenance the same matter was under consideration of Government for granting permission.

Government Order:- For making the space for sports complex available for sports complex and its use for commercial purposes is being approved subject to the following terms and conditions.

1) **The Collector, as the Chairman of the District Sports Complex Committee and as the Collector, should identify suitable Government land for the sports complex or land of local self-governing bodies and mark the land for sports complex development and the land in question shall be handed over for public use over to respective sports Committee, viz. Divisional Sports Complex Committee, District Sports Complex Committee and Taluka Sports Complex Committee at free of occupancy price and free of revenue. The land from local authorities shall be acquired with their consent with Memorandum of Understanding.**

2) The concerned Sports Complex Committee will be able to use 1/3 of the total area for commercial purposes (i.e. for profitable purposes). In this way the use of commercial purpose will be allowed as per users permissible in Development Rules of Mumbai Municipal Corporation (other Municipal Corporations), local Municipal Corporations/ Municipal Council / Planning Authority or Special Planning Authority.

3) The concerned Sports Complex Committee shall have the right to fix the security deposit, occupancy price for the transfer of developed commercial unit.

4) The Sports Complex Committee shall have the right to fix the license fee or monthly license fee for this commercial purpose i.e. for more profitable use. (Taluka Sports Complex Committee

should get the approval of the Collector for both the above matters)

5) While development of complexes, the Divisional Commissioner / Collector is being authorized to give approval for land utilization with financial support, as prescribed on the principle of Build and handover / Build, Use and handover / Build and handover. (The Collector is being declared as the competent authority to accept the proposal of the Taluka Sports Complex Committee.)

6) All the proceeds from commercial use will be allowed to be kept for the development of the respective sports complex and the condition of giving a pail of the unearned amount to the Government will not be applicable.

7) Use, transfer and finance the use of this land, build and transfer or build on the principle of construction and return as per general terms and conditions attached to Appendix-A, but subject to the provisions of the MIDAS Act.

8) Land made available for Government Sports Complex cannot be transferred / sold / leased to any other department or private person without the prior permission of the Collector.

9) Right to make appropriate amendments in the above terms and conditions depending on the place and time shall remain subject to the administrative department.

This decision is being issued with the consent of Revenue and Forest Department as well as Finance Department.

By Order and in the name of the Governor of Maharashtra,

Sd/-

(Pradip Indulkar)

Under Secretary, Government of Maharashtra.”

(emphasis supplied)

61. Thus, under the aforesaid directives, it was necessary for the State Government to identify suitable Government land for the sports complex

or land of local self-governing bodies and earmark the land for a sports complex for such land to be handed over for public use. Once such land was made available for Government Sports Complex, it cannot be transferred, sold or leased not only to any other department, but also a private person except with prior permission of the State Government.

62. By further Government Resolution dated 26 March, 2003, the State Government furthering its objective to achieve that the athletes from the State participate in different games namely Asiad, Olympics and world Championship, resolved that necessary efforts in such direction are required to be taken to chalk out a figured programme and take a planned action, for which it was thought appropriate to make available the appropriate sports infrastructure in furtherance of the sports policy of the State. Hence, for creation of sports facilities under the Maharashtra Sports Infrastructure, a Government Resolution dated 26 March, 2003 came to be issued, so as to have a district sports complex to be set up in every district *inter alia* with international standard sports infrastructure as also divisional sports complex with international standard sports infrastructure to be set up in each of the revenue division. The Government Resolution also provided that it was proposed to prepare a special action plan under the 2001 Sports Policy for the development of sports in Mumbai city and

under such plan, one divisional sports complex for Mumbai city and also for Konkan Division shall be set up at “**Thane-Navi Mumbai**”. It was provided that also two district sports complexes and twenty taluka sports complexes shall be set up for two districts i.e. Mumbai city and Mumbai suburban. The Government Resolution made various provisions on funds, recurring expenditure, private investment and implementing agency. However, what is significant are the provisions for objective and guiding principles under which it was provided that general students shall have entry in the complexes free of cost, instead of providing facilities to the persons from elite class or from higher class of the society. Thus, a progressive provision was made in this Government Resolution. It would be imperative to extract this Government Resolution which provides for a comprehensive sports policy and objectives to be achieved. It reads thus:-

“(Official Translation of a photocopy of a GOVERNMENT RESOLUTION, printed in Marathi)

Exhibit “E”

Maharashtra State Sports Policy, 2001 to
create sports facilities under the
Maharashtra Sports Infrastructure

GOVERNMENT OF MAHARASHTRA
Social Justice, Cultural Affairs, Sports and Special Assistance Department
Government Resolution Number : S.S.P.-2003/M.No.11/S.Y.S.-1,
Mantralaya Extension Building,
Mumbai 400032
Date : 26th March, 2003.

PREFACE :- The Maharashtra State has fixed its next objective to see that the athletes from the State participate in Asiad, Olympics and world Championship games and for that purpose, it is necessary to make efforts in a specific direction, to chalk out a figured programme and to take planned action. It is also necessary to make available the appropriate sports infrastructure in every village for the athletes of Maharashtra to give sparkling performance at the Asian and global level. For that purpose, it is necessary to include even the private investors, Corporate Bodies, private companies in this objective and to take the name of Maharashtra to the top in the field of sports. In view thereof, Maharashtra Sports Infrastructure Development Plan has been prepared.

As per the Sports Policy, 1996 of the Maharashtra State, approval was granted to set up District Sports Complex for creating various sports facilities at the district places and also to start District Sports Training Centre in one Taluka of each District as a Pilot project. However, considering the funds made available under this Scheme, increasing rates of construction works, changes in the technology and other aspects, there is a necessity to carry out changes on a large scale in the entire scheme. Under the Maharashtra State Sports Policy, 2001, the Taluka has been considered as an Unit for development of Sports and it has proposed to make available minimum facilities of various sports in the Taluka Sports Complex in each Taluka on Taluka level and also to make available sports facilities of national level in the District Sports Complex at District level and to create sports infrastructure of international standard on divisional level. Thus, in order to make available these sports infrastructure at all places in the State in the aforesaid manner, it is proposed to set up 1) Taluka Sports Complex, 2) District Sports Complex and 3) Divisional Sports Complex in a modified manner.

GOVERNMENT RESOLUTION :- Now, by superseding the orders issued from time to time regarding the two schemes viz. Setting up of Taluka Sports Training Centre, District Sports Complex and also regarding the Divisional Sports Complex being implemented at present, approval is granted for further schemes.

1. Taluka Sports Complex shall be set up in every Taluka with minimum sports infrastructure for various sports.
2. District Sports Complex shall be set up in every district with minimum national and with additional international standard sports infrastructure.
3. Divisional sports complex with international standard sports infrastructure shall be set up in Revenue division wise each Division.
4. **Under the Sports Policy, 2001 of the Maharashtra State, it has been proposed to prepare a special action plan for the development of sports in Mumbai city and under this plan, one divisional Sports Complex for Mumbai city and also the divisional sports complex for Konkan Division shall be set up at Thane-Navi Mumbai. Similarly, two district sports complexes and twenty taluka sports complexes shall be set up for two districts viz. Mumbai city and Mumbai suburban.**

2. For setting up Taluka Sports Complex at Taluka level, District Sports Complex at District level and Divisional Sports Complex at

Divisional level under the Maharashtra Sports Infrastructure Development Plan, approval is hereby granted for the below-mentioned revised expenditure.

Sports Complex	Prevailing expenditure	Proposed expenditure
Taluka Sports Complex	Rs.7.00 lakhs	Rs.25.00 lakhs
District Sports Complex	Rs.200.00 lakhs	Rs.400 lakhs
Divisional Sports Complex	Rs.1200.00 lakhs	Rs. 1600.00 lakhs

Taluka Sports Complex :- Taluka Sports Complex shall be set up in each Taluka of the State. First of all, the land for the said Taluka Sports Complex shall be fixed. The Taluka Sports Complex Committee and Collector shall fix the land for the said Taluka Sports Complex with the concurrence of the Peoples’ Representatives and shall submit the said proposal for final approval to the Director, Sports and Youth Services for his concurrence. The said land must possibly be situated at the place of Taluka Headquarter. However, if any other land is more convenient and is located at a central place and if all the concerned officers have consented therefor then, such land may be fixed. The minimum facilities as mentioned in Appendix “A” appended hereto shall be made available in the Taluka Sports Complex and as per these facilities, the same shall be termed as Bronze package, Silver package, gold package and the said schemes may be implemented as per the availability of funds and also by using the same for commercial purpose. However, there will be atleast a bronze package at every place and Taluka Sports Complex having minimum facilities mentioned therein will be set up.

If the facilities more than the Bronze package are to be made available, then, the proposal by clearly mentioning about the collection of funds and by making available the Guarantee letter in respect of the availability of funds from such Machinery through which the funds would be made available, shall be submitted to the Director, Sports and Youth Services for approval. Moreover, as regards various facilities for the upper package after Bronze package, the facilities will be created as per the availability of funds from time to time. However, the land required for the probable silver or gold package, should initially be get available. The guidelines for the Bronze, silver and gold package will be issued separately.

Recurring Expenditure :- The Taluka Sports Complex Committee shall make efforts to create sources of income for maintenance of the Taluka Sports Complex. Grant for an amount of Rs.3.00 lakhs per year shall be admissible for maintenance thereof. (including pay and allowances)

3. **Sports Facilities :-** The general facilities to be provided under District Sports Complex have been mentioned in Appendix “B” however, the approval of the State Level Sports Development Committee shall be obtained for the Project Report to be prepared in this regard.

The general facilities to be provided under Divisional sports

complex have been mentioned in Appendix “C” appended hereto. Under this scheme, it shall be necessary to have the general facilities viz. Modern stadium/Indoor Hall/Synthetic 400 meters running track, Olympics size Swimming pool with 10 lanes together with auditorium, Indoor stadium together with auditorium etc. of international standard on divisional level mentioned in Appendix “C”, under one roof as far as possible. However, as per the utility, the same may be obtained in various parts of the city. The work of the Hockey Astroturf ground and also of the shooting range shall be done in this divisional sport complex. The sports facilities shall be made available so that it would become possible to organize the international competitions. Under this Scheme, Divisional sports complex having the sports material required for the international competitions shall be set up.

For setting up of the District/Divisional Sports Complex, the Sports Complex Committee shall be formed as mentioned in Appendix “D” appended hereto. The Project report in respect of the sports facilities shall be got prepared by each of the Sport Complex Committee and the approval thereto shall be obtained from the State Level Sports Complex. General instructions are issued for setting up this District/Divisional Sports Complex and the detailed guidelines in respect thereof will be issued separately.

4. **Planning of the sports facilities :-** The planning of the sports facilities shall be made in the State by the State Level Sports Development Committee.

5. **Selection of the land for sports complexes :-** While making selection of the land for the sports complexes, the important fact is that the said facilities can be used conveniently by maximum number of people especially by students/athletes and the said complexes should not be at isolated places, that means the same should be convenient for the citizens/persons concerned from the view point of their transportation/contact/management. For this purpose, the sports facilities herein must be available at one and the same place, however, if the required large place is not available at one and the same place or if a facility is available then, there shall not be objection for having the sports facilities at various places. Similarly, the Project Report shall be prepared only after ascertaining the facts viz. as to for how many times, a particular facility will be utilized and as to whether such kind of sports facility is already available and by considering the utility thereof and as to whether it is necessary to have the said facility under this Scheme. Similarly considering the popularity of the sports in the concerned area and subject to the prescribed grant, any new facility will be availed besides the approved facility or the improvement will be made in the approved facilities. However, the Divisional District Sports complexes shall be set up at the places of the Divisional and District Headquarters.

6. In the State, the Divisional Sports Complex for Konkan Division shall be set up in Thane / Navi Mumbai and the Divisional Sports Complexes having facilities of international standard shall be set up in each Revenue Divisions viz. Nashik, Pune, Aurangabad, Nagpur and

Amaravati. Further, additional Divisional Sports Complex for the City of Mumbai shall be set up in Mumbai City and Mumbai Suburban area.

FUND: A maximum fund of total sum of Rs.4.00 Crores will be made available under the District Sports Complex Scheme. Under this Scheme, a grant of Rs.4.00 Crores shall be admissible for each District Sports Complex. The fund that has been made available for the District Sports Complex approved earlier will be deducted from the total sum of Rs.4.00 Crores and the balance fund will be made available as per the requirement. If the works under construction have got stalled for want of fund, the same can be completed from this fund. However, a separate proposal in this regard will have to be submitted to the State Sports Development Committee for seeking its approval thereto. Similarly, if no sports facility has been availed heretofore, proposals afresh can be submitted for the same.

A total fund up to Rs. 16.00 Crores, in the form of a Grant, will be made available for the Divisional Sports Complex wherein a Revenue Division-wise fund will be made available for the Divisional Sports Complexes at Nagpur, Aurangabad, Amaravati, Pune, Nashik, Konkan (Navi Mumbai and Thane) and Mumbai.

Recurring Expenditure: For the expenditure to be incurred on maintenance of the District Sports Complex, a fund to the tune of Rs.10.00 Lacs for first year, of Rs. 7.50 Lac for the second year and of Rs. 5.00 Lacs for third year is sanctioned. (Including Pay and allowances).

For the maintenance of the Divisional Sports Complex, an annual grant of sum of Rs.15.00 Lac for the first year, Rs.12.50 Lakhs for second year and Rs.10.00 Lac for third year is proposed. (Including Pay and Allowances). In order to meet the maintenance expenditure, the Sports Complex Committee shall, since the beginning, make efforts to create its own source of income and shall become self-sufficient.

7. **PRIVATE INVESTMENT:** Considering the fact that a huge amount of development fund is required to make available this basic infrastructure for development of sports, if a private investment is sought, the basic infrastructure for development of sports on a large scale than the proposed scheme could be made available. If it is possible to undertake the projects of setting up of sports complexes through the commercial purpose or through private investment in such a manner, then such projects shall be undertaken subject to the provisions of the Maharashtra Infrastructure Development and Support Act. Detailed orders in this regard are issued separately.

8. **IMPLEMENTING AGENCY:** The Committees like Taluka Sports Complex Committee for Taluka Sports Complex, District Sports Complex Committee for District Sports Complex and Divisional Sports Complex Committee for Divisional Sports Complex, as mentioned in Appendix-One shall be set up for implementation of the projects. As regards the urban areas, the orders for setting up of the Committees will

be issued separately. The Guidelines for functioning of the Committees will be issued separately.

For setting up the Divisional and District Sports Complexes, the respective Committees can get the works of supervision of the construction and other works carried out either through the Public Works Department, Private Architect or by dividing the same between both of them. For that purpose, 4% E.T.P. amount can be divided and paid between both of them. The guidelines in this regard will be issued by the State level Sports Development Committee. Similarly, only one colour scheme for all Divisional and District Sports Complex like the one for Taluka Sports Complex will be fixed by the State Level Sports Development Committee.

9) **PHASES OF GRANT FOR SPORTS COMPLEXES:** The grant of Rs.25.00 Lac admissible for the Taluka Sports Complex will be made available in lumpsum together with the approval for the proposal. For preparing the project reports in respect of District Sports Complex and Divisional Sports Complex, an amount of Rs.5.00 Lac for District Sports Complex and Rs.10.00 Lac for Divisional Sports Complex will be made available for meeting the preliminary expenditure after the land therefor is determined / made available. Further, the grant of Rs.4.00 Crores and Rs.16.00 Crores will be admissible for the District Sports Complex and Divisional Sports Complex respectively and the said entire amount shall be payable. The same will include the items mentioned in Appendix-1, 2 and 3 enclosed herewith. The fund to the extent of 20% of the total cost will be made available along with granting of approval to the proposal and thereafter, the remaining fund will be made available as per the progress of construction work. The fund to be made available for the Taluka Sports Complexes during the Financial Year 2002-2003 shall be transferred to the District Sports Complex Committee for the District concerned and thereafter, the said fund shall be transferred to the Taluka Sports Complex Committee through the District Sports Complex Committee.

The criterion for the method of releasing the fund for the Divisional and District Sports Complexes will be issued separately.

10) **OBJECTIVE AND GUIDING PRINCIPLES:** These Centres shall be people oriented. General students shall have entry in the said complexes free of cost. Instead of providing facilities to the high-brow and people from higher class of the society merely for Commercial purpose, efforts shall be made to see that even ordinary people can make use of the same. Entry to the play-grounds in the sports complexes shall be kept free of cost for the students from Class-I to Class-VIII and minimum monthly fee shall be charged for the students from the higher standards. Schools and Colleges, Educational and other Institutions shall be charged annual membership fee for use of play-grounds and no facility shall be made available free of cost. Fee shall be charged for Annual Sports / Annual functions. Appropriate fee shall be charged for the facility of every indoor game. (This fee shall be determined by the Managing Committee in consultation with the representative of the

association of every sport). The said Managing Committee shall prepare a time-table for sports facility and for the competitions/training programme to be held throughout the year. Besides the sports, permission will be granted to make use of the ground and other premises for commercial purpose for the days that will be specified by the Government. The concerned Managing Committee shall be responsible to maintain the Indoor Hall and the equipment therein. (The guidelines in this regard will be issued separately).

11) The detailed instructions / Rules in this regard will be issued separately. The expenditure to be incurred for this purpose shall be defrayed from the provision made in the concerned financial year under the account head mentioned hereinbelow:

(A) “2204 – Sports and Youth Services, 104 – Sports and Games, Scheme under Five-Year Plan – Scheme under State Schemes (10)(02) Sports Training Centre Establishment, 41 – Ancillary Grant, (2204 045 5) Demand No.N-2”.

(B) “2004 – Sports and Youth Services, 104 – Sports and Games, Scheme under Five-Year Plan – Scheme under State Schemes (16)(02) – Setting up of Sports Complex, 41 – Ancillary Grant, (2204 0553) Demand No. N-2”.

12. This Government Resolution is issued with the concurrence of the Finance Department received under its Unofficial Reference No. 302/03/Expenditure-14, dated 26.03.2003.

By Order and in the name of the Governor of Maharashtra.

(Pradeep S. Indulkar)
Under Secretary,
Government of Maharashtra.”

(emphasis supplied)

63. As clearly seen from the aforesaid Government Resolution, comprehensive provisions are made recognising the need to achieve the objects of the 2001 sports policy of the State Government, with special emphasis for a divisional sports complex at Thane – Navi Mumbai, considering the importance of the location of these places. It is on such

backdrop, the land in question at Ghansoli, Navi Mumbai came to be earmarked for a Government Sports Complex.

64. It is also clear from the departmental note dated 22 June, 2007 on record of the CIDCO, which is not in dispute, in which CIDCO had clearly stated for providing land to the Government to establish Regional Sports Complex in Navi Mumbai *inter alia* referring to the letter from Mayor, as also a letter received from the “Deputy Director, Sports & Youth Service,” Mumbai Region dated 17 May, 2007. In such noting, it was recorded that the Government vide order dated 24 February, 2003 had approved a proposal to establish Regional Sports Complex on “Built Operate and Transfer (BOT) basis”, so as to provide for the sports activities, ten in number, as set out therein. The contents of this office submission is required to be noted which read thus:-

“CIDCO/SP (N)/

22nd June, 2007.

Sub: Request for providing land to establish Regional Sports Complex in Navi Mumbai.

Ref.: i) A letter from Mayor, NUMC to JT.M.D, CIDCO dated 1.06.07.

ii) Letter from Dy.Director, Sports & Youth Service, Mumbai Region dated 17.05.2007 addressed to Mayor, NMMC

Vide above cited letter Mayor, NMMC requested Jt MD to take necessary action for provision of land to establish Regional Sports Complex in Navi Mumbai and attached the copy of letter received by her from **Dy Director Sports & Youth Service, Mumbai Region. In the said letter of Dy Director Sports, it is stated that Govt, vide order dated 24.02.2003 has approved a**

proposal to establish Regional Sports Complex on *Built Operate and Transfer (BOT) basis”. Accordingly, it has sanctioned Rs.1600 Lakhs and also allowed to use some part of land for commercial purpose which will help to compensate the cost of administration, maintenance and repairs of sports complex. The said Regional sports complex will include following sports activities:-

1. 400 Mt. runway and open auditorium.
2. Swimming pool of Olympic size (50 X 21 Mt, diving pool, beginner’s pool, filtration plant etc.)
3. Closed air conditioned auditorium of size (36 X 12 Mt with wooden / synthetic flooring)
4. Astroturf Hockey ground.
5. Grounds for various sports such as football, handball, Kabbaddi, Kho-Kho, Basket ball court, tennis court.
6. Shorting range.
7. Sports Hostel(Separately for Boys & Girls)
8. Gym (Health Club).
9. Sports material of international standards required for various sports.
10. Squash court.

It is seen from the said letter that they have kept their follow up with CIDCO to take land for sports complex and quoted rate @ Rs. 1750/- per Sq.Mt in the letter. This shows that either from marketing section or from SSO Section this proposal might have been processed earlier. Therefore MM(I) /MM(III) and also SSO need to examine their earlier correspondence if any made with Dir. (Sports) Authority and submit consolidated proposal to Jt.MD for his information and on-word discussion with Hon’ble Mayor, NMMC.

As far as land allocation for Sports Complex is concerned, from planning point of view following are the 4 locations shown in the enclosed plan for ready reference.

Sr. No.	Node	Sector	Area (in Ha)
1.	Ghansoli	12	08 Ha
		13	15 Ha
2.	Airoli	19	a) 1.25 Ha
			b) 1.25 Ha

Submitted please.”

(emphasis supplied)

65. We may also observe that even the NMMC was of the considered opinion that the land admeasuring 37 acres as reserved for Navi Mumbai Sports Complex at Ghansoli was not sufficient and it would be necessary that more land is made available to NMMC by CIDCO and utilized for the purpose of setting up the municipal corporation sports complex. In this regard, the Municipal Commissioner had addressed a letter to the Additional Chief Secretary, Urban Development Department dated 31 July, 2012 under the subject 'allotment of plots reserved by CIDCO for Navi Mumbai Municipal Corporation Sports Complex and adjacent plots to Navi Mumbai Municipal Corporation for setting up state-of-the-art Sports Complexes at Sector-14, Ghansoli, Navi Mumbai'. It was categorically recorded that area of 36.82 acres being offered was insufficient and consolidated demand for additional land adjacent to the sports complex reserved by CIDCO for Government of Maharashtra Sports Complex admeasuring 28.13 acres and adjacent Plot-C, sector-12A admeasuring 11.17 acres should be made available for setting up state-of-art sports complexes and an integrated project plan should be prepared. The said letter reads thus:-

“
No. NMMC / Estate / 770/2012.
Date:- 31/07/2012
To,

Hon'ble Additional Chief Secretary
Urban Development Department,
Mantralay, Mumbai-400032

Subject:- Regarding allotment of plots reserved by CIDCO for Navi Mumbai Municipal Corporation Sports Complex and adjacent Plots to Navi Mumbai Municipal Corporation for setting up state-of-the-art Sports Complexes at Sector-14, Ghansoli, Navi Mumbai.

With reference to above subject and contest there off, in the meeting organized by Hon. Guardian Minister, Thane District and Hon. Mayor, on dt. 30/06/2012 for development of Sports Activity, presentation was made by M/s. Shivaji Patil & Associates, Architect appointed by Navi Mumbai Municipal Corporation for development of Sports Complex on plot admeasuring 36.82 acres at Sector-14 Ghansoli, reserved by CIDCO for Sports Complex of Navi Mumbai Municipal Corporation.

With the said presentation, The Hon'ble Guardian Minister Thane District pointed out that for setting up state-of-the-art Spoils Complexes, area of 36.82 acres is insufficient and consolidated demand for additional land adjacent to the sports complex, reserved by CIDCO for Government of Maharashtra Sports Complex admeasuring 28.13 acres and adjacent Plot-C, sector 12A admeasuring 11.17 acres, shall be made and thereafter for setting up state-of-the-art Sports Complexes an integrated Project Plan should be prepared.

The area of land reserved by CIDCO for Navi Mumbai Municipal Sports Complex is 36.82acres. Comparison is drawn to State and National level developed sports complexes i.e. Indira Gandhi Sports Complex, New Delhi has an area of 102 acres and the Sports Complex at Baner, Pune has' an area of 128 acres.

Compared to the above two sports complexes, the area of land reserved for the Navi Mumbai Municipal Corporation Sports Complex is very less and insufficient. Also in Navi Mumbai, Mumbai and Thane Municipal Corporation area, there is no up-to-date sports complex available.

Considering the said facts, it is proposed to provide the following facilities in the said sports complex.

1. A parking lot with a capacity of 2500 for car parking
2. Outdoor stadium ground with 16500 seating capacity.
3. Air-conditioned Indoor Stadium with 12000 seating capacity.
4. Indoor Olympic size swimming pool 50.0 M. X 25.0 M. With 1000 seating capacity (20.0 M. X 25.0 M. Diving Pool, 20.0

M.X 20.0 M. Warm Up Pool.)

5. Basket ball court with 300 seating capacity.
6. Hockey stadium with 5000 seating capacity
7. 2 nos. Kho- Kho pitch having size 29.0 M x 16.0 M & 4 nos. kabddi pitch having size 12.5 M x 10.0 M with the provision for rest rooms and 300 seating capacity.
8. Tennis & Badminton Stadium - For final matches 2 nos. of badminton pitches with 750 seating capacity and 2 nos. of Badminton practice pitches. 1 No. of Tennis pitch for matches with 750 seating capacity and 3 Nos. of Tennis practice pitches, with the provision of waiting, changing room and food plaza.
9. Administration & accommodation - administrative office complex, 150 rooms for accommodation, game facilities, table tennis, snuffer, Chess, Carom, Cafeteria, rest room, waiting area with toilet facility.
10. Large scale food court & Food Plaza:- close and semi open dining, lounge area, toilet & refreshment facilities, take away counter, with fully equipped kitchen, cold storage & storage.

Apart from above, Municipal Corporation intends to develop a state-of-the-art sports complex with a fully equipped cricket stadium with a capacity of 40,000 seats and a capacity of 2,000 vehicles. Area available for Sports Complex in the jurisdiction Navi Mumbai Municipal Corporation, i.e. 28.13 acres of Government of Maharashtra Sports Complex and adjoining area of 11.67 acres of plot-C, if it is made available to Navi Mumbai Municipal Corporation, a total area of 76.62 acres will be available for the construction of up-to-date and complete sports complex.

However, for the purpose of setting up an up-to-date and complete sports complex in the Navi Mumbai Municipal Corporation area, the Government of Maharashtra is requested to transfer the land reserved for the Sports Complex and the vacant plots adjacent to it to the Municipal Corporation.

Accompanied by: - Revised site map with area description letter,

Yours Faithfully,

Commissioner
Navi Mumbai Municipal Corporation”

(emphasis supplied)

66. The petitioner has placed on record plans/maps issued by CIDCO from time to time (Exhibit-K, page 86) which indicated clear demarcation of Sector 12 for “Government of Maharashtra Sports Complex” of 8 hectares and Sector 13 for Navi Mumbai Municipal Corporation Sports Complex. However, it appears that later on as the CIDCO was of the opinion that the State Government was not responding, it decided to issue the tender in question by sub-dividing the plots in Sector 12A at Ghansoli so as to cull out plot no.4 to be allotted. However, in the “plan” which was published as annexed to the tender, CIDCO nonetheless showed part of the land earmarked for Government of Maharashtra Sports Complex, however, without specifying the area so earmarked. There are four plots which are earmarked in Sector 12, which were tendered for the purpose of residential-cum-commercial use.

67. It also appears that after the formation of Navi Mumbai Municipal Corporation, considering the fact that the NMMC would assume legal status as a planning authority in regard to the large plot of Navi Mumbai area, there was an endeavour on the part of the NMMC to utilize lands which in fact, according to CIDCO, were vested with the CIDCO. There was some confrontation between these two authorities who considered themselves as planning authorities for Navi Mumbai area. The State

Government was required to intervene by issuing directions under Section 154 permitting the CIDCO to utilize / allot lands which stood vested with the CIDCO and which according to CIDCO, had remained undeveloped and not part of the lands which, in fact, were handed over to the NMMC on which NMMC would exercise jurisdiction. In its endeavour, the NMMC had sought an approval for preparation of a development plan or modification of the plan which was prepared by CIDCO which was not in fact a development plan, but a broad zoning, however, such request of the NMMC was not accepted by the State Government. The legal controversy, however, was put to rest by this Court in the decision of **Nishant Karsan Bhagat vs. The City and Industrial Development Corporation of Maharashtra Ltd. & Ors.** (supra), when it was held that the plots which the CIDCO had tendered at the relevant time (not qua the Ghansoli node) could be allotted by CIDCO, being undeveloped lands, still considered to be vested in CIDCO. However, the fact remains that the controversy in the present case is quite different than what had fell for consideration of the Court in such case.

68. We may thus observe that the aforesaid position in regard to the State's policy to encourage sports and provide overall sports facilities is not in dispute. In pursuance of such policy of the State Government, it is not

in dispute that the State Government had approached the CIDCO some time in the year 2003 through the Directorate of Sports requesting CIDCO for earmarking land at Ghansoli, Navi Mumbai to be utilized for construction of a Government Sports Complex. It is in pursuance of such request as made by the State Government, the CIDCO since 2003 had earmarked the land admeasuring about 20 acres at Ghansoli to be utilized for the purpose of Government Sports Complex. The correspondence in that regard is referred by us in the aforesaid paragraphs. It also appears to be not in dispute that at all material times, the land earmarked by the CIDCO for Government Sports Complex formed a contiguous part of the whole “layout” of which part of the land namely admeasuring 41 acres was to be also reserved for the NMMC to construct its sports complex. The intention was always to develop these two sports complexes as integrated complexes, as clearly seen from letter of NMMC dated 31 July 2012 (supra) addressed by the Municipal Commissioner to the Additional Chief Secretary, Urban Development Department.

69. Thus, the respective lands for State Government and NMMC were earmarked by CIDCO. The land earmarked for NMMC has now been allotted by the CIDCO to the NMMC and which would now be used to develop the NMMC Sports Complex. However, what cannot be forgotten

is that the adjoining land had always remained “earmarked” to be allotted to the Government of Maharashtra, to be developed as Government Sports Complex, so as to create a contiguous and integrated sports complex. Such decision had always prevailed and was to be implemented in the matter it was conceived in the year 2003.

70. In our opinion, the earmarking of such land by CIDCO to be utilized by NMMC for its sports complex as also the land being earmarked for the Government Sports Complex to be utilized by the State Government, which in fact was acted upon by the CIDCO, cannot be said to be something less than actual reserving of such land for the benefit of NMMC and the State Government, for these lands to be utilized for setting up the respective sports complexes. Such was the appropriate decision taken by the CIDCO within its powers as a new town development authority. CIDCO was fully within its authority to so demarcate nay reserve the land for public purpose as these were lands belonging to the State Government, however, vested with the CIDCO as a new town development authority, for the purpose of utilization and development as per the policies of the State Government. CIDCO’s affidavit on this would throw more light.

71. CIDCO in its reply affidavit has clearly stated that it is a “State Government Company”, share capital of which is subscribed exclusively by the Government of Maharashtra. It has stated that CIDCO was constituted as a “New Town Development Authority”, by the Government of Maharashtra, under the provisions of the MRTP Act. CIDCO has also categorically stated that the entire land as made available for its disposal, as new town development authority is owned by the Government of Maharashtra. It is on such understanding of the legal position, which the MRTP Act would recognize, *inter se* between the State Government and the CIDCO, it appears that the land at Ghansoli came to be earmarked for both such sports complexes. Apart from this insofar as the lands which had remained undeveloped and which stood vested in the CIDCO, notwithstanding the formation/constitution of the NMMC (municipal corporation for the Navi Mumbai) CIDCO’s authority to deal and dispose of such undeveloped lands was recognized by this Court [see *Nishant Karsan Bhagat vs. The City and Industrial Development Corporation of Maharashtra Ltd. & Ors.* (supra)].

72. However, as noted above, the present proceedings are required to be considered from a different perspective. The proceedings in our opinion cannot be adversarial qua the principal cause espoused by the petitioner

against the State Government and the CIDCO, as what is sought to be espoused by the petitioner is purely a public interest for a government sports complex to be developed and made available to the public at large, which is also recognized by the State Government, CIDCO and NMMC at all relevant times, till the impugned decision dated 26 March, 2021 was taken by the State Government to abandon the Navi Mumbai land and shift the Government Sports Complex in a remote rural area at Nanore in Taluka Mangaon, District Raigad, altogether a different district.

73. We may observe that in the contemporary times and more particularly considering the meager number of government sports facilities being provided by the Government to the public at large, the Government had taken a conscious decision under its sports policy to provide sports facilities by utilizing Ghansoli land in Navi Mumbai (the land in question), so as to have a sports complex of an international standard adjoining to NMMC Sports Complex. We are of the clear opinion that the petitioner is not incorrect when it contends that the citizens are being deprived of sports complex being provided by the Government in view of the Government purporting to give up its decision to use the earmarked land at Ghansoli.

74. On the above conspectus, we are next required to examine as to whether the decision of the State Government as contained in the impugned Government Resolution dated 26 March, 2021 so as to give up the land at Ghansoli thereby shifting the Government of Maharashtra Sports Complex to a far off place at Village Nanore, Taluka Mangaon, District Raigad is legal and valid. To appreciate the reasons which weighed with the State Government to take such decision, and to us appearing to be quite astonishing, it would be necessary to extract the contents of Government Resolution dated 26 March, 2021, which reads thus:

“(Official Translation of a photocopy of a GOVERNMENT RESOLUTION, printed in Marathi).

Exhibit – “U”

Regarding granting
Administrative Approval for
setting up Divisional Sports
Complex for Konkan Division at
Village – Nanore, Taluka –
Mangaon, District – Raigad
instead of at Navi Mumbai.

GOVERNMENT OF MAHARASHTRA

**School Education and Sports Department,
Government Resolution No. D.S.C.-1921 / M. No. 92 /S. Y. S.-1
Madam Cama Road, Hutatma Rajguru Chowk,
Mantralaya Annexe, Mumbai – 400 032.
Date: 26th March, 2021.**

Read:

- 1) Government Resolution bearing No. N. S. P. - 2003 / M. No.11 / S. Y. S.-1, dated 26th March, 2003, issued by the Department of Social Justice, Cultural Affairs, Sports and Special Assistance.
- 2) Government Resolution No. N. S. P. - 2009 / (M. No. 25/09) / S.Y.S. -1, dated 21st March, 2009, issued by the School Education and Sports Department.
- 3) Decision taken in the meeting of the State Sports Development Committee dated 09th March, 2021 held under the chairmanship of the Hon'ble Minister (Sports and Youth Welfare).

PREFACE :

Under the Sports Policy, 2001 of the State of Maharashtra, by the Government Resolution dated 26th March, 2003, referred to at Sr. No.1 hereinabove, approval has been granted to set up Taluka Sports Complex (Bronze Package, Silver Package and Gold Package as per the sports facilities), District Sports Complex (at least of National level and of International level in additional form) and Divisional Sports Complex (International level) for making available various sports facilities at all places in the State for creating sports facilities under the Maharashtra Sports Infrastructure Development Plan. As per the said approval, one Taluka Sports Complex in each Taluka, one District Sports Complex in each District and one Divisional Sports Complex in each Revenue Division (including Kolhapur and Latur Division) will be set up in the State. **In the Government Resolution dated 26th March, 2003, referred to at Sr. No.1 hereinabove, it has categorically been mentioned that one Divisional Sports Complex for the City of Mumbai and the Divisional Sports Complex for Konkan Division shall be set up in Mumbai, Navi Mumbai. A Court Case is going on in respect of the plot of land proposed for the Divisional Sports Complex to be set up in Navi Mumbai. Moreover, as the land, sufficient for a sports complex, is not available in the Navi Mumbai area, the issue of setting up the Divisional Sports Complex for Konkan Division at Village – Nanore, Taluka – Mangaon, District – Raigad instead of at Navi Mumbai was under consideration of the Government.**

GOVERNMENT RESOLUTION :

A Government Land admeasuring 10.00 Hectares (24 Acres) from Survey No. 130/0, at Village – Nanore, Taluka –

Mangaon, District – Raigad has been made available for setting up a Divisional Sports Complex for Konkan Division and the said land has been transferred to the name of the Executive Committee, Divisional Sports Complex, Mumbai Division. **Taking into consideration this fact, the approval of the Government is granted to set up the proposed Divisional Sports Complex for the Konkan Division at Village – Nanore, Taluka – Mangaon, District – Raigad instead of at Navi Mumbai.**

2) For setting up the Divisional Sports Complex for Konkan Division at Mangaon, District – Raigad, an estimate of the amount of Rs.8344.16 Lacs (in words – Rupees Eighty Three Crores, Forty Four Lacs, Sixteen Thousand only) and plans in respect thereof have been submitted and approval thereto is granted as per the decision of the State Sports Committee, subject to the limit of grant for the Divisional Sports Complex prescribed under the Government Resolution referred to at Sr. No.2 hereinabove.

3) As per the said estimate, the Divisional Sports Complex will have the facilities viz. 400-meter Synthetic Running Track, Foot Ball Ground, Athletics Pavilion Building, Hockey Ground along with changing room, Basket Ball, Volley Ball Courts, Kho-Kho, Kabaddi Grounds, Tennis Court, Changing Room, Outdoor Games, Internal Roads, Indoor Hall, Swimming Pool, Diving Pool, Protection Wall, Boys-Girls Hostel, Rain Water Harvesting and Bore Well, Filtration Plant, Swimming and Diving Pool, ‘Material Testing and Royalty Charge’, ‘G.S.T.’, Electrification, Water arrangement, levelling of sports ground and other items / facilities.

4) The expenditure to be incurred on this account shall be defrayed from the provision sanctioned for the current and also for the subsequent financial year under the Account Head viz. “Demand No. E-3, Major Account Head 2204, Sports and Youth Service, 104, Sports and Games, (16)(02) Setting up Sports Complex, (2204 1827), 31, Ancillary Grants (Non Salary)”. The orders for disbursement of funds for this purpose will be issued separately.

5) For this purpose, the Accounts Officer, Sports and Youth Service, Pune and the Commissioner, Sports and Youth Service, Maharashtra State, Pune are declared as the Drawing and Disbursing Officer and the Controlling Officer, respectively.

6) The State Sports Development Committee under the Chairmanship of the Hon’ble Minister (Sports) has been set up as provided in the Government Resolution bearing No. N. S. P. - 2003 / M. No. 11 / S. Y. S. - 1, dated 26th March, 2003, issued by the Department of Social Justice, Cultural Affairs, Sports and

Special Assistance. The State Sports Development Committee has been given the administrative and financial powers of the Planning Department and the Finance Department. This Government Resolution is issued as per the decision taken in the meeting of the State Sports Development Committee dated 09th March, 2021, held under the Chairmanship of the Hon'ble Minister (Sports) and with the approval of the Government.

7) This Government Resolution is made available on the Web-site www.maharashtra.gov.in of the Government of Maharashtra and its Code Number is 202103261313580521. This Order (Government Resolution) is authenticated by digital signature and is issued.

By order and in the name of the Governor of Maharashtra.

Swati Madhukar
Nanal

Digitally signed by
(S. M. Nanal)
Deputy Secretary,
Government of Maharashtra.”

(emphasis supplied)

75. A bare reading of the aforesaid Government Resolution would demonstrate palpably untenable reasons, apparent from its contents, when it records that *“a Court case is going on in respect of the plot of land proposed for the Divisional Sports Complex to be set up at Navi Mumbai,”* being one of the reasons. The Court case is none other than the present proceedings. Can this at all be the reason for the State Government to take a decision and that too when monumental public interest is involved, namely, of development of international sports facilities which would cater to two big cities, like, Mumbai and Navi Mumbai and the adjoining areas within the ‘Mumbai Metropolitan Region’ so as to relinquish setting up of

such Government sports complex at Ghansoli. In our opinion, such reasons are clearly an eye wash and appear to have been taken patently on extraneous considerations. The second reason as provided in the said GR, is to the effect that sufficient land “for a sports complex” is not available in Navi Mumbai area, also appears to be a new “eureka” and clearly not a realistic/genuine reason, as the facts and circumstances prevailing from long time since 2003 would demonstrate. This clearly appears to be a new discovery that for the first time in the year 2021, such an opinion was formed that the land at Navi Mumbai would not be sufficient. As to how such opinion is formed, in no manner whatsoever is spelt out, either in the said GR or any other material placed on record on behalf of the State Government. This apart, as to what is the logic in now having the sports complex in a remote area 115 kms. away from Navi Mumbai also cannot be comprehended. In such context, we really wonder as to how any sanctity can be attributed in shifting the sports complex to such remote area at Mangaon again not in a vast area but land admeasuring 24 acres, so as to substitute the State Government’s well considered decision to locate this Government sports complex at Ghansoli in Navi Mumbai.

76. In the affidavit filed on behalf of CIDCO of Mr. Faiyaz Ahmed Khan, Manager Town Services-1, it is clearly set out that the land in

question was earmarked as 'Social Facility (Government of Maharashtra Sports Complex). The affidavit also clearly states that the demand of Government of Maharashtra, Sports department was that the said land earmarked for Government sports complex was to be allotted free of cost and that the CIDCO had informed the District Sports Officer to obtain specific orders from the Government in case the said land for the District Sports Complex is to be handed over free of cost, however, as the District Sports officer failed to obtain such orders/directives from the Government. We have quoted the extract of affidavit in paragraph no. 26 hereinabove. The affidavit of CIDCO thus indicates that it was merely a formality which was required to be observed for the Government to direct CIDCO with the authority and powers at its command under the MRTP Act, to allot the land free of cost for such public purpose and for which the land at all material times was reserved as "Social Facility (Government of India sports complex)", and now proposed to be utilized for 'Future development' as stated by CIDCO in its affidavit. In any event, we find that it is unconscionable for CIDCO to have taken into consideration market price, as the basis for allotment of land to the State Government, as necessarily even under the Navi Mumbai Disposal of Lands (Amendment) Regulations, 2008 (for short "**2008 Regulations**") framed by CIDCO, it

was within the powers of the CIDCO as conferred under Section 159 read with Section 113 of the Maharashtra Regional and Town Planning Act, that the land be allotted to the State Government for public purpose at a specified rate of lease premium as Regulation 4(i) would postulate. Regulation 4(i) of 2008 Regulation reads thus:

“4. Manner of disposal of plots – The Corporation shall dispose off plots by inviting public tenders or by public auction, except for the following categories :

(i) to the Central Government/State Government and their Undertakings, to the Local Bodies and to any Government Autonomous Body constituted under any Act for any public purpose, by considering individual applications at specified rate of lease premium.”

77. Even if Regulation 4 of the 2008 Regulations (supra) is to be applied, this would not mean that the State Government stands divested of its authority and power to seek or have an allotment of such land free of cost from CIDCO. Even assuming such regulations are required to be applied for allotment of land at the hands of CIDCO for such public purpose, however, with the powers the State Government wields under the MRTP Act read with the 2008 Regulations, in the present circumstances, it was possible for the State Government to get such land allotted to it either free of cost or at the specified premium. However, this certainly cannot be the prevailing market rate. In these circumstances, CIDCO

ought not to have resorted to remove the earmarking of the plot as a “Social Facility (Government of Maharashtra Sports Complex)” to “Future Development”, which is nothing but commercial exploitation of the land causing a serious prejudice to not only the present but future rights of the citizens who are residents of the urban agglomeration, popularly called as ‘Mumbai Metropolitan Region’ to have free of cost sports facilities. In the circumstances in hand, we wonder as to whether those in the control of planning and development of cities and towns are at all conscious, that the rights of the future generation also need to be protected and accounted for. We are clearly of the opinion that these are fundamental rights which are guaranteed to the citizens for all times to come, to have appropriate and better living conditions which would include the State and the planning authorities providing open spaces, gardens, playgrounds which would include government sports complexes (not private sports facilities/complexes). On such issues, a vision and thought for the common man is of utmost necessity, before any decision is taken in concretization of open spaces and government lands which are acquired for public purposes. There would be a gross failure on the part of the government and other public bodies similarly placed if such vital issues are overlooked and/or intentionally sought to be buried in creating urban

jungles. In the absence of these issues being seriously considered, it would result into a situation of grave injustice and taking away the fundamental rights of the citizens not only in *praesenti* but also for the future. If we do not have a foresight, concern and care for the future rights of the citizens, and from all possible perspectives, we are abdicating the Constitutional principles which recognizes an overall development of an individual, which is part of right to livelihood as guaranteed under Article 21 of the Constitution and as interpreted in its various dimensions, in catena of judgments of the Supreme Court.

78. Apart from what has been stated hereinabove, we may also refer to the provisions of Section 118 of the MRTP Act, which provides for “Disposal of land by Development Authority”, [namely, CIDCO in the present context, as “Development Authority” is defined under section 2(8) to mean a “New Town Development Authority” constituted or declared under section 113 of the MRTP Act]. Section 118 recognizes the powers of the State Government in regard to disposal of land. It would be necessary to note the said provisions, which reads thus:

“118. Disposal of land by Development Authority.

(1) Subject to any directions given by the State Government under this Act, a Development Authority may dispose of any land acquired by it or vesting in it to such persons, in such manner, and subject to such terms or conditions as they

consider expedient for securing the development of the new town in accordance with proposals approved by the State Government under this Act:

Provided that, a Development Authority shall not have power, except with the consent of the State Government, to sell any land or to grant a lease of any land for a term of more than ninety-nine years, and the State Government shall not consent to any such disposal of land unless it is satisfied that there are exceptional circumstances which render the disposal of the land in that manner expedient.

(2) The powers of a Development Authority with respect to the disposal of land acquired for it for the purposes of this Act shall be so exercised as to secure, so far as practicable, that persons who were living or carrying on business, or other activities on land so acquired shall, if they desire to obtain a plot or accommodation [on land belonging to, or vesting in, the Development Authority and are willing to Comply with any requirements of the Development Authority as to its development and use, have an opportunity to obtain a plot or accommodation suitable to their reasonable requirements on terms settled with due regard to the price at which any such and has been acquired from them.

(3) Nothing in this Act shall be constructed as enabling a Development Authority to dispose of land by way of gift, mortgage or charge, but subject as aforesaid, references in this Act to the disposal of land shall be construed as reference to the disposal thereof in any manner, whether by way of sale, exchange or lease by the creation of any casement, right or privilege or otherwise.”

(emphasis supplied)

79. On a plain reading of the aforesaid provision, the Development Authority would be under an obligation to dispose of the lands subject to any directions given by the State Government under the MRTTP Act and in such manner and subject to such terms or conditions for securing the development of the new town in accordance with proposals approved by

the State Government under the MRTP Act. Further the Development authority shall not have any power, except with the consent of the State Government to sell, lease any land for a period of more than 99 years under any exceptional circumstances agreed by the State Government. Thus it is not the case that the CIDCO could exercise authority without the express approval of the State Government to change the earmarking/designation of the said land and decide to allot the same to private parties by inviting bids. Such action on the part of CIDCO was in clear breach of the provisions of Section 118 of the MRTP Act, for the reason that prior to August 2016, there was no decision of the State Government as communicated to the CIDCO to cancel the earmarking of the land reserved for the Government Sports Complex.

80. It doesn't need a second thought that a sports complex needs to be available as a facility close to urban areas, which is surrounded by large population comprising of children and youth, who would take the benefit of sports facilities being made available by the Government. It is this large population comprising of common persons, who would take and receive the ultimate benefit of the sports facilities, when such facilities are at a reachable distance. We say so, as the population of Mumbai is about 2 crores and population of the adjoining urban centres/cities like Navi

Mumbai, Thane, Kalyan-Dombivli, Vasai-Virar and Bhivandi would collectively be at an estimate of about 7 to 10 crore, out of which Navi Mumbai itself being about 2 crores. These are all areas which would stand benefited by such Government sports facilities. When the Government thinks about sports facilities to be created in a Government Sports Complex, it thinks of a common man, that is a man with limited means who is not so advantaged like the persons belonging to the elite class who can have sports facilities in high profile and costly clubs and gymkhanas. Thus, it was most illogical for the State Government to take a decision to not have a Government sports complex at Ghansoli, Navi Mumbai and shift the same to Nanore, Taluka Mangaon, District Raigad.

81. It also appears that the land allotted at village Nanore has already been used as a taluka sports complex since many years. It is impossible that the rural facility being planned by the State can provide benefit to such large number of children and youth, who are available in the urban areas and who would be desirous to have the sports facilities, not too far from their residence.

82. This apart, from the reasons as purportedly furnished by the State Government, to now move out the Government sports complex from

Ghansoli, Navi Mumbai to a remote area, in our opinion, is wholly an arbitrary decision of the State Government. Such decision is not taken in the interest of the Sports department and/or on appropriate consultation with the sports department which is apparent from the contradicting stands taken by the urban development department and the sports department. In such context, two significant aspects which have come on record, firstly, a very telling affidavit filed by the Sports Department which has highlighted the basic consideration for setting up a sports complex. All such essentials as highlighted in such affidavit were fully met by the proposed Government sports complex at Ghansoli. In this context, and for convenience, it is necessary to re-extract the relevant contents of the affidavit, which read thus:

“5. I say that, the schedule C of the Government Resolution dated 26.03.2003 prescribes that the proposed Divisional Sports Complex shall include open auditorium along with synthetic track of 400 mtrs. Gallery with seating arrangement for the spectators, pavilion and administrative building, closed swimming pool admeasuring 50 X 21 mtrs. along with filtration plant, multipurpose hall with wooden/synthetic flooring, Synthetic turf Hockey Ground, playground for football, handball, kabbadi, kho-kho, basketball court, tennis court and cinder track of 400 mtrs. Shooting and Archery track etc. The equipments provided in such Divisional Sports Complexes shall be of international standards.

7. I say that, the Government of Maharashtra thereafter, again declared sports policy of Maharashtra in the year 2012. In the said policy, the Government has decided to establish Greater Mumbai Sports Authority which will look after the creation of ward wise sport complexes and district sports complexes at

Mumbai City, Mumbai Suburban and New Mumbai. Hereto annexed and marked as Exhibit-A is the copy of the Sports Policy, 2012.

11. I say that, as per the policy of the Government, the Sport Complexes shall be selected from the places which are convenient for transportation and administration for citizens and persons concerned. The land at Sector No. 12 and 12A, Ghansoli, Mumbai if developed as sports complex, it can fulfill the need of growing populations in the area of Municipal Corporations such as Thane, Navi Mumbai, Kalyan-Dombivali, Mira-Bhayander, Vasai-Virar, Ulhasnagar & Panvel and the same is convenient for the transportation to Mumbai and Kokan Division and also helpful for the International Sports Events which will be hosted in future in the State of Maharashtra.

12. I say that, in view of above policy of Government, the land which is subject matter of the present petition, can be developed for the creation of Sports Complex of International Standard. I say that for establishing various sports playground such as Astroturf hockey ground, playground for football, handball, kabbadi, kho-kho, basketball court, tennis court, shooting and swimming pool etc. the authority required huge land to satisfy the requirement of Sports Grounds of International Standards.

13. I say that, the development of the said plot for sports complex of international standard is possible with Joint Venture with New Mumbai Municipal Corporation and CIDCO. However, there is no correspondence from the CIDCO regarding allotment of plot at Sector No. 12 and 12A, Ghansoli, Navi Mumbai to this Respondent which was earmarked for Regional Sports Complex.”

(emphasis supplied)

83. Secondly and most vitally, the Sports department had addressed a letter dated 24 November, 2022 to the CIDCO requesting for handing over of the Ghansoli land to the State Government although the area appears to be inadvertently recorded as 42 Acres. The said letter reads thus:

EXHIBIT – ‘E’
DIRECTORATE OF SPORTS AND YOUTH SERVICES,
MAHARASHTRA STATE

Shivchhatrapati Sports Complex, Mahalunge-Balewadi, Pune-411045.

Email ID: comm.dsys.mh@gov.in / cssc.pune@gmail.com

Tele. No.: 020-29807445 / Website:sports.maharashtra.gov.in

No. Ghansoli N. M./Premises/S.C./2022-23/D-1/5038

Date: 23.11.2022/24.11.2022

To,
The Managing Director,
CIDCO, City and Industrial Development Corporation (Mah.) Ltd.,
2nd Floor, CIDCO Bhavan, CBD Belapur, Mumbai.

Sub: Regarding getting the land at Ghansoli, Navi Mumbai, kept reserved for the Sports Department of the Government of Maharashtra .

In order to create basic sports infrastructure to make available sports related facilities for the sportsmen and citizens and also to produce international level sportsmen, a scheme to build Division/ District / Taluka level Sports Complexes (Maharashtra Sports Infrastructure) is underway in the State under the control of the Directorate of Sports and Youth Services. A 42-Acre plot of land of CIDCO in Sector 12 and 12-A at Ghansoli has been kept reserved for developing the sports facilities.

Taking into consideration the international status of the cities of Mumbai and Navi Mumbai and also the huge population of the said cities, availability of transport facilities, conducive atmosphere here for sports and the international level sportsmen here, it is proposed to create on the said land the international level sports facilities under the Schemes of the Sports Department.

The FIFA U-17 Men’s Football World Cup Competition, 2017, Asian Women’s Football Competition, 2021 and FIFA U-17 Women’s Football World Cup Competition, 2022 have been organised in Navi Mumbai. Considering these facts, it is necessary to develop supplementary facilities for organising the international level competitions being organised from time to time. In order to organise international level competitions, it is necessary to create on behalf of the Government, an up-to-date high quality sports facilities, training and sports science centers and also to provide fitness facilities for the citizens and high quality sports facilities for the students, on the CIDCO land in Navi Mumbai.

In view of the same, the 42-Acre plot of land in Sector 12 and 12-A in Ghansoli under the control of CIDCO has been kept reserved for the Sports Department. Therefore, it is requested to make available to this Department the said plot of land as per the Government Rules and as per the instructions issued by the Government, free of cost.

(Signature Illegible)
23.11.22.
[Dr. Suhas Divase]
Commissioner,
Sports and Youth Services,
Maharashtra State.”

(emphasis supplied)

84. The aforesaid position being taken by the Sports department cannot be overlooked. It thus clearly appears, that the decision to shift the Government sports complex from Ghansoli to Nanore was taken at a higher level and by stroke of a pen without any thought to the ground realities which otherwise prevailed on record. Such decision is required to be faulted on several aspects, as the record would bare out, some of which in our opinion are:

1. It is unthinkable that the land at Ghansoli, Navi Mumbai, which is reserved for a Government Sports Complex, can remain unutilized for 18 years.
2. It is further beyond one's imagination as to how and by which standard this sports complex, which would cater to such large population of the urban agglomeration and surrounded by cities like

Mumbai, Kalyan-Dombivli, Thane, Vasai-Virar, Ulhasnagar and Navi Mumbai itself, can be shifted to a remote rural area about 115 kilometers away from the proposed Government Sports Complex, being a place which has no comparable rail, road and air connectivity, as Navi Mumbai would have.

3. Further, necessary infrastructure for sports persons and other necessary activities in relation thereto are certainly not available, which can be eminently found in these urban cities.

4. It is inconceivable that routine use of the sports facilities even if provided at Village Nanore can be utilized by youth and children, who are residents of these urban areas.

85. We may further observe that it is highly unimaginable that the State Government in the affidavit filed by Shri. Aseemkumar Gupta, Principal Secretary (Urban Development Department) as also recorded in the minutes of the meeting, could take a stand that the pricing of the land earmarked for Government Sports Complex as demanded by CIDCO and/or payable to CIDCO would be Rs.2500 crores. It is also extremely surprising for the Principal Secretary to not holistically consider the issue of arbitrary allotment of part of the land earmarked for a

Government Sports Complex to respondent no.5 by CIDCO and attribute importance at the level of the State Government to such allotment made in favour of respondent no.5. This has become writ large from the minutes of the meeting held under his Chairmanship on 24 July 2023 and 9 August 2023 in which it was recorded as under:-

“02. Considering all the facts and submission from implementing Agencies, Petitioner and Respondents present in the meeting, detailed discussion was carried out. As per directions Hon’ble High Court vide order dated 14.7.2023 and alternatives suggested, following conclusions were drawn :-

Sr. No.	Point	Conclusions
1	The requirement for an International Sports Complex has to be viewed at the State level, and not as a divisional Sports Complex. Instead of purchasing land worth Rs.2500 crores, it would be better to utilize the funds for upgradation of the facilities provided in the Sports Complex at Balewadi in Pune.	The Sports Complex being proposed on the said land of CIDCO is of International level. Cost of the development is going to be recovered by commercially exploiting 1/3rd of the land in question. <u>However, cost of the land itself has not been factored in the total cost of the project and that is about 2500/- crores as per CIDCO's expectation from sale.</u> Thus effectively the proposal is of an International Stadium on the 2/3rd of land for a cost of 2500/- crores for the public (whether it is borne by N.M.M.C., State Government of CIDCO, this is public money). The issue then is whether to have an International Sports Complex at this cost and if yes, then where in the State. It is clear that State should decide as a policy about various levels of Sports Complexes - from city to district to division to state to national to International levels

		<p>and various right locations for these. State must also, as a policy, decide total amount of public money that may be allocated to these complexes. <u>Indirectly by asking CIDCO to part away with the land without any compensation for the project inherently means that an International level Sports Complex is desired by a city at the cost of 2500/- crores without any deliberations and policy at the State level. City has a duty to make a city level sports complexes of required number to its citizens but may also aspire to have higher level of Sports Complexes as it adds to city's stature and attraction, while adding facilities for its own citizens of higher standard.</u> This however cannot be at a cost of some other Organization. Thus N.M.M.C. must decide whether it wishes to have an International standard of Sports Complex at the cost of 2500/- crores and if yes, then it must make value of the land available to CIDCO. If N.M.M.C. does not want to take up cost fully of the land it may request State Government for the funds and State Government (Sports Department) may decide on the basis of its policy. CIDCO has already made available spaces for sports as per the norms (and more) and also the 14.5 Ha of land just adjacent to the said land is handed over to N.M.M.C. for Sport Complex thus cannot be asked to transfer this land free of cost to N.M.M.C. for the sports complex. If N.M.M.C. does not show interest in purchase of land</p>
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		at market value from CIDCO in a reasonable time frame, CIDCO should be allowed to proceed with its own plan.
2	<p>The Respondent No. 5 about his grievances, to which it was explained by the representative of M/s. Progressive Group that they have paid the full amount for the plot allotted to them in 2016-17 itself and are unable to take their project further owing to the matter being subjudice before the Hon'ble High Court since 2019. The delay in taking up the construction shall attract payment additional of Lease Premium to CIDCO, as per conditions of the Agreement. He further stated that they are not averse to the relocation of the plot in the same sector along the same road.</p>	<p>Whatever may be the final utilization of the plot, third party rights already created towards M/s. Progressive Group must be respected. Thus CIDCO should relocate/ realign their plot, if necessary, as per mutual consent with Respondent No.5 only, so that whatever is the final use to which the land is put to, is not affected adversely by location of this plot. Representatives of Progressive Group agreed to the suggestion.</p> <p>Thus it was decided that CIDCO would realign or relocate on the same road in sector-12, Ghansoli free from any reservation of proposed N.M.M.C. draft DP reservation Plan, Encroachment, CRZ, Wetland, Mangroves and Forest Reservation etc. and should not come in purview of section 46 of M.R.T.P. Act to grant C.C. after realign or relocate.</p> <p>Issue of authority to put reservation by N.M.M.C. on undeveloped ownership lands of CIDCO was discussed in detail. There should be no ambiguity about the authority of various Organizations like N.M.M.C. and CIDCO about putting and developing reservations on various lands in CIDCO area. This should be done on priority by Urban Development Department at the earliest.</p>

(emphasis supplied)

86. What is evident from the aforesaid minutes of the meeting is that there is no basis spelt out in law or otherwise as to how CIDCO expected that the cost of the said land to be allotted to the State Government is being valued at Rs.2500 crores, also there being no break up of such cost. Secondly, CIDCO itself has not placed anything on record to show that it had demanded an unconscionable amount of Rs.2500 crores from the State Government for the plot of land admeasuring 20 acres when CIDCO has allotted 36 acres of land to NMMC at an amount of Rs.22.17 crores, as set out in the allotment letter dated 19 January 2017. It is also surprising to see the camouflage of the burden of Rs.2500 Crores being shifted on the NMMC. It appears to be clearly a manipulation and twisting of genuine facts being presented in the aforesaid minutes. The minutes, however, do not appear to reflect the correct position on record and the intention in referring to such huge amounts to be the price of the plot also does not appear to be a well considered exercise.

87. It is thus surprising that if under the earmarking pattern as followed by CIDCO, if the CIDCO can allot to NMMC 36 acres of land at a lease premium of Rs.22,17,57,584/-, then as to why despite clear provisions of Regulation 4 read with Section 118 of the MRTP Act, CIDCO would demand such unconscionable amount of Rs. 2500 crores from the State

Government. In this context, it would not be out of place to observe that there has to be a sense of proportion in the pricing of these lands, the nature of which is not different. This for the reason that the CIDCO in allotting 36 acres of land recovers a lease premium of Rs.22,17,57,584/- (i.e. Rs. 22.17 cores) from NMMC, then by what standard for merely 20 acres of land an amount of Rs.2500 crores, is being demanded from the State Government. Such amount would be at what enhanced percentage of the price at which such adjoining land was allotted to the NMMC, is itself a puzzle. The CIDCO and the State Government have miserably failed to divulge and justify anything in this regard. We are, therefore, in complete agreement with the petitioner when it states that the high officials of the State Government have created this edifice of a “high pricing”, without any basis, to mislead the Court by quoting the price of the CIDCO plot at Rs.2500 crores. Even assuming that such cost of Rs.2500 crores is considered to be a project cost (when it is not so seen from the minutes of the meeting, as also not demanded so by the CIDCO), even then such astronomical amount being suddenly thrown on the record of the proceedings, is unacceptable. The suggestions of the Court at the interim stage that the issue needs to be resolved, is utilized to create such untenable material. To our mind, looking at the record, it appears to be a

false defence that has been taken on the part of the Urban Development Department and with an implicit, non-corrective approach of the CIDCO in this behalf. It was the boundened duty of the CIDCO to correct the State Government if the figure of Rs.2500 crores as taken by the Principal Secretary, Urban Development Department, was not the amount actually demanded by CIDCO, (in our opinion it could not have been demanded, when there is nothing on record to this effect), no steps were taken by the CIDCO to correct such infirmity and/or should we say a blunder the State Government had attempted to place before the Court. Such senior officials present in the meetings held on 25 July, 2023 and 9 August, 2023 have neither risen to the expectation of the public at large in taking a decision in public interest, much less of the Court. It is a sorry state of affairs that at the higher level of the Government, these executive decisions taken by such officials go uncorrected, before it is taken up for judicial scrutiny.

88. We are thus of the clear opinion that the decision on the part of the State Government, purportedly, relinquishing the CIDCO's land at Ghansoli, to be not utilized for Government Sports Complex, is brazenly illegal and arbitrary, looked from any angle. In our opinion, there was no need for the State Government to take a hurried decision during the

pendency of the petition and considering the case of the petitioner as made out in the petition, as also in the teeth of the CIDCO illegally resorting to make allotment of land from the land reserved for the Government Sports Complex, to private parties (respondent No.5), and to take decision to shift the same to Village Nanore, a remote area in the Raigad District. Such decision, in the circumstances, which had fell for our consideration, in no manner can be said to be justifiable, reasonable and fair, and in fact, it is a decision against public interest and is a decision to promote commercial utilization of the land, reserved for the Government Sports Complex, by making it available for allotment to the developers whose appetite for development of lands and converting cities into urban jungles would remain unparalleled. It is for the Government and the planners to ponder to the extent such concretization can be stretched, more particularly, in the absence of supporting infrastructure and by sacrificing public amenities of utmost necessity being made available for the future generation, like gardens, playgrounds, recreation parks and sports complexes.

89. We may also observe that considering the present plight of the metro cities as Mumbai, Navi Mumbai or the adjoining areas have developed the further concretization and commercial exploitation on lands

earmarked for such public facilities certainly needs to be curtailed and the authorities are required to be alive to not only the present but the future rights of the citizens for open places, playground, sports complex, to be enjoyed by a common man. It is only in these circumstances, the Government would reach out to the needs of a common man and not in the manner as majoritively done by CIDCO. In our opinion, the Government Sports Complex is of paramount importance to children and youth who form the large mass of population in the urban areas surrounding Navi Mumbai. It is wholly against the public interest to deprive them of a Government Sports Complex and availability of best sporting facilities so as to further the interest of sports, not only under the policies of the Government of India but also of the State Government.

90. However, while saying so, we do not mind if the State Government intends to have an additional sports facilities at Nanore, Mangaon for whatever good the Government feels it can do for the children and youth in the rural area of Raigad district. However, we cannot persuade ourselves to come to a conclusion that such complex can in any manner be a substitute for a sports complex at Ghansoli, Navi Mumbai.

91. Insofar as the impugned action on the part of CIDCO in issuing the August 2016 tender inviting bids for allotment of plots from the land

reserved for Government sports complex is concerned, in our opinion, the same has been rightly questioned by the petitioner. It is not in dispute that the land as tendered and allotted to respondent no. 5 was earmarked for the Government's sports complex. In our opinion, such decision on the part of CIDCO was an illegal decision taken without consulting the State Government. In taking such decision, the CIDCO was certainly changing the status of the land which was earmarked for a Government sports complex to be allotted in open market. CIDCO has taken a consistent position since the year 2003 till the bids were invited in the year August 2016, that the said land in Sector 12 and Sector 12A, would remain earmarked for the Government sports complex. The justification which is given by CIDCO to take steps to issue such tender neither satisfies our conscience nor in our opinion would satisfy the test of reasonableness, fairness and non-arbitrariness which were required to be followed by a public body dealing with State largesse. It is quite surprising for the CIDCO saying that as it did not hear from the State Government to take and utilize the land for the sports complex, it was thought appropriate that the same can be allotted to private parties by dividing the same into plots. It is most significant that except for one plot as allotted to respondent no. 5, CIDCO could not allot the other plots, as no bidders came forward to

have such allotment. This appears to be for the reason that the players in the field were quite aware that the land was earmarked for a Government sports complex. The plan annexed to the tender document itself sets out the earmarking for the Government sports complex. If the State Government was to issue an express “no objection”, CIDCO could have dealt with the said land, however, in the present circumstances when CIDCO had complete knowledge and was conscious that the land was earmarked for the Government sports complex as also when the same was disclosed in the tender, it was not fair and proper to invite such bids merely on an assumption as gathered by it in August 2016 that the State Government is not interested in the said land. It is most significant that except respondent no. 5, who submitted its bid for the plot in question, other three plots which were also sought to be auctioned, there were no final takers for these plots. However, respondent no. 5, as a business person, was fully aware of such position and the position CIDCO had taken, submitted its bid and secured allotment of plot no. 4, which was part of the land as earmarked for the Government sports complex and when the same was contiguous land to the sports complex being developed by NMMC. As contended on behalf of respondent no.5, it may be that inviting tenders / bids and respondent no. 5 participating in the same was

as good as a routine procedure followed by CIDCO, however, we are not on the procedure as followed by CIDCO, as in the present circumstances, what would go to the root of the matter is the public interest being buried by CIDCO in taking a decision of inviting bids of which respondent no. 5 has become beneficiary. In our opinion, CIDCO causing a dent to part of the land earmarked for the Government Sports Complex itself was not acceptable. It was not fair and proper for CIDCO to make a inroad to change the nature of the land, so that in future a further commercialization can pave its way.

92. We may observe that for the first time, the decision to shift the sports complex at Village Nanore, Taluka Mangaon came to be taken vide GR dated 26 March, 2021 whereas the tender was invited by CIDCO in August, 2016 at which point of time the Government had not taken any decision to give up with the utilization of land at Ghansoli, Navi Mumbai so that CIDCO could blatantly consider such land to be open land, at its disposal to be dealt with by inviting bids for its commercial exploitation.

93. There is something more fundamental when we consider such action of CIDCO from the perspective of CIDCO also being a planning authority as the “New Town Development Authority”. CIDCO had prepared development plans for its different nodes (areas) in its capacity as

a new town development authority. Such development plan indicated land use zones, although not making reservations as the planning authority would otherwise do. It is also stated in its reply affidavit that the nodal plans prepared by CIDCO earmarked the lands and not reserved it. However, what is most significant is that at all material times such earmarking was acted upon, implemented and considered, as if it was akin to a reservation, and it is on such premise and footing, entire allotment and development in Navi Mumbai has taken place in regard to the development of different nodes. It is on this very footing, land was earmarked for NMMC's sports complex and accordingly allotted to the NMMC. Thus, NMMC was the beneficiary of an earmarking of the said land allotted to it for Sports Complex which was an earmarking of the year 2003, however, the State Government although placed in the same position has not been made such beneficiary. This approach on the part of CIDCO is *ex facie* arbitrary. It would therefore be wholly misconceived not only factually but also on the rules as followed by CIDCO, to hold that merely as the land in question was earmarked for Government sports complex, it needs to be considered to be not reserved for such purpose and for such reason CIDCO could freely deal with the land. Thus, CIDCO's decision to issue such tender was illegal, apart from being contrary to the

larger public interest as involved.

94. We may reiterate that in the present case earmarking of the land by CIDCO for Government Sports Complex in its zoning or in the development plan which CIDCO formulated, implemented and adhered was nothing less than a reservation as created in public interest in favour of the Government in the land in question proposed to be utilized for Government sports complex. Hence, to decide to use the land for any other purpose and namely for commercial exploitation in making allotment to respondent no. 5 for construction of residential complex was not only objectionable but wholly arbitrary and illegal. We have, thus, no manner of doubt that such decision of CIDCO to invite tenders in August, 2016 and allot the plot of land to respondent no. 5 needs to be quashed and set aside.

95. We may also observe that CIDCO is a public body and as reflected from its affidavit, CIDCO is under a mandate to adhere to Government policies and cater to the public interest being forwarded by the State Government. In fact, CIDCO has solemnly stated on affidavit that the entire land vested with CIDCO is of the ownership of State Government. If this be so, a public body like CIDCO also ought to have acted with

public consciousness and ought not to have issued tenders and invited bids, unless the Government through its Sports department in whose interest the land in question was earmarked, was to communicate its clear decision prior to August, 2016, giving up the land in question to be utilized for the Government sports complex.

96. Now coming to the contention of the respondents on delay latches, we may also observe that the argument of delay and latches being canvassed on behalf of the respondents in assailing CIDCO's allotment of the plot of land to respondent no. 5 would be required to be rejected in the facts and circumstances of the present case, and more particularly considering the overarching public interest. It is well settled that private interest must give way to larger public interest, which is insurmountable. This petition is not filed at such point of time that the position on the user of land changed in such manner that such change had become irreversible, moreover, the illegality in allotment of the part of the land to respondent no.5 would itself go to the root of the matter. Moreover, respondent no. 5, except for taking possession, has not utilized the land and thereafter by an interim order dated 10 October, 2023, this Court had directed that there shall be no further development of the plot of land in question.

97. In any event, an argument of delay and laches cannot have a straight jacket application. It would depend on the facts and circumstances of the case and the Court would be required to examine objection on different parameters and perspectives, as the facts and circumstances demonstrate. Thus, in our opinion, although the petitioner has approached after a period of about two years to assail such decision to allot part of the land reserved for Government Sports Contract and before the land can be utilized by respondent no. 5, for commercial development, in the facts of the case, which are quite gross, we reject the respondent's submission on delay and laches. For such reasons, Mr. Gangal's submission referring to the decision in *Bombay Dyeing (supra)* that the petition needs to be dismissed on the ground of delay and laches, does not commend us in the facts and circumstances of the case. As discussed quite in detail, it was not proper and legal for the CIDCO to initiate tender process as also there was gross illegality in disturbing the earmarking of the plot which was reserved since 2003 to be utilized for the Government Sports Complex. Thus, when there is gross illegality and the nature of the plot was not changed inasmuch as no construction has been commenced, it cannot be said that the parties had irreversibly changed the position to consider such delay to be fatal for the reliefs to be granted on the petition.

In our opinion, in the present facts, respondent No.5 merely parting money and depositing the same with CIDCO and even the possession being handed over to respondent no.5 can neither be considered to be a relevant factor when we tested on the touchstone of the doctrine of delay and laches. More particularly, when the land which is earmarked, as of date stands intact and the nature of the same in no manner whatsoever has been changed insofar as physical utilization of the land is concerned. Equity can never defeat or override law. In this view of the matter, as we have observed that it is paramount considering the public interest, that the State Government utilizes the land in question for the Government Sports Complex. The allotment of the part of the land earmarked for the Government Sports Complex in favour of respondent No.5 was wholly arbitrary and illegal.

98. An allegation is made on behalf of respondent no.5 as also supported on behalf of the CIDCO that the petitioner, being a body of architects, is in fact interested in having the sports complex work to be undertaken by its member or members, who would be professionals in designing the stadiums or in similar activities, hence the present petition is filed in the private interest of the petitioner's members requiring dismissal on this count. We are not impressed with such contention as urged on

behalf of these respondents. In our opinion, these are too far-fetched allegations that any direct interest is being pursued by the petitioner, in praying that the land earmarked by CIDCO for Government Sports Complex be utilized for such public purpose and be not utilized for any other purpose. It may be that some of the architects or even private developers may be engaged by the State Government in undertaking such works and for that matter, it may be anybody, either from Maharashtra or outside Maharashtra or under an inhouse mechanism, the State Government may develop such infrastructure for sports, however, this would not mean that any such motive can be attributed to the petitioner or its member or members, that the petitioner as a body would become interested in any proposed work on the subject land and hence what is being pursued in the petition is private interest. In our opinion, such contention is totally untenable, vague, which outrightly needs to be rejected.

99. Now coming to the issue of pricing, we are of the clear opinion that it is most unfortunate for the State Government as also on the part of the CIDCO, which is a body of the State Government to have taken a stand to give up public interest in setting up a Government Sports Complex at Navi Mumbai. As clearly set out in the reply affidavit, the State

Government is in fact the owner of all the lands, which the State Government itself has vested with CIDCO for its appropriate utilization and which would include the land in question earmarked/reserved for the Government sports complex. In fact these are the lands of the State Government. In this view of the matter, it would be not only ostensible but palpably unrealistic for the CIDCO and the State Government to blow the pricing trumpet, more particularly as noted hereinabove, the CIDCO had taken a categorical stand with the Sports Department to procure an approval / NOC of the State Government for allotment of such land free of costs. This albeit, that the land could be allotted at specified rate when required in public interest (see: Regulation 4 of the "CIDCO Regulation"). In any event the State Government has acquired larger lands for the purpose of the New Bombay project before they were being vested with the CIDCO, for development as the new town development authority. The State Government has never lost its ownership so as to assert, much less legally, that it needs to pay a price for its own land. There is nothing on record which can support such stand of the State Government and the CIDCO that the State Government would be required to pay such large amount to the CIDCO. There is no legal sanctity to such demand. With such complexion of the things as they stand, insofar as the State

Government is concerned, the winds of pricing of the land at Rs.2500 crores which are sought to be canvased by the State Government as also ostensibly accepted by the State Government and which the CIDCO and the State Government wants the Court to believe is not only preposterous but untenable looked from any angle.

100. We may observe that such stand of quoting an astronomical price to be paid by the State Government to CIDCO, i.e., owner itself paying the cost of the land to its own agent, is something which would shock our judicial conscience. In our opinion, such seemingly untenable stand being taken by the State Government and an eye wash of a pricing being thrown at the public and the Court by the CIDCO and the State, when it comes to providing a Government sports complex, a facility in paramount public interest and a utility free of cost, to be made available for training in variety of sports to thousands of children and youth for all times to come, is a casualty in the whole process.

101. With quite a wrench, we observe that the State Government in taking such decision, has acted against public interest to forfeit and desert a project of public importance of having a government sports complex with modern sports facilities being made available at Navi Mumbai, to benefit

large adjoining areas. In such decision, public interest is wholly sacrificed and for whose benefit, is the curtain raiser.

102. We wonder as to what public good, public benefit or something of such solemnity could be achieved by such decision of the State Government. We are unable to find any persuading answer, as the only consequence of such decision is to make such land reserved for last 21 years for a Government sports complex, to be made available for commercial exploitation, so as to add to the existing concrete jungle by providing more residential and commercial buildings. This is nothing but commercialization being achieved on land earmarked for an important purpose of Government Sports Complex, this more particularly for the reason that the plot of land in question is close to the sea (the CRZ being in proximity). It would not be out of place for the petitioner to think that implicit in such decision is the interest of the builders/developers to avail such land, hence it is not unlikely that the CIDCO and the State Government have either overlooked this aspect and/or are promoting commercialization of the land by sacrificing public interest in having sports facilities. Both the authorities have shut their eyes to the future needs of the citizens for sports facilities being provided by the Government.

103. We may thus ponder as to whether the existing concretization is not enough and to what extent the public bodies like CIDCO would continue to exploit Government lands which were vested with them for good planning, for the purpose of revenue. This more particularly for the reason that since 2003 till date, the land has continued to remain earmarked for Government sports complex.

104. We may observe that in taking such decision there is gross non-application of mind and as to how the government has considered sports to be the last priority and/or insignificant, when it comes to commercial exploitation of land in urban agglomeration. We do not find that there is any thought or study undertaken by the sports department in taking such decision on the large number of sports facilities and recreational grounds being made available in important cities all over the world. The impugned decision hence appears to be totally arbitrary and *ipse dixit* of the concerned high officials, who have thought it appropriate to disband the earlier vision and good thinking of making a provision for a sports complex at Ghansoli, Navi Mumbai. It is impossible to conceive a situation that in the future in a city such as Navi Mumbai or Mumbai, such land can be retrieved for sports facilities. The impugned decision therefore not only lacks a holistic but a future vision regressive to the development

of sports. It is certainly not appropriate for the State to have such deleterious policy of not making available sports facilities to a common man. In such matters who would think of a common man is the question.

105. We also find that it was most inappropriate for the State Government not to seek utilization of the said land for developing the sports complex for a long period of 21 years and now when it comes to utilization of the land by developing the sports facilities, take a position of shifting such complex at a far away place. There is neither an insight nor any perception for the welfare of the citizens nor a logic or a thought of public good, in taking such decision. In our opinion, in the first place, non-utilization of the land although ear-marked and completely to the knowledge of the sports department itself has caused unimaginable prejudice to the citizens being deprived of the sports facilities. We have, therefore, no manner of doubt that the impugned GR dated 26 March, 2021 shifting the sports complex from Ghansoli to Nanore-Mangaon and the reasons attributed thereunder are patently illegal, arbitrary and unconstitutional.

106. We may also observe that the sports policies which are being shown to the public at large cannot be kept to be paper policies, and not to be

implemented. Lackadaisical approach and priority as given by the State Government in developing the government sports complex at Ghansoli, Navi Mumbai, speaks volumes at the approach of the concerned officers towards sports. It is unthinkable that the State Government can keep the land earmarked and not utilize the same for the public purpose for which it was earmarked. It is high time that the State Government becomes conscious that it is equally important that the children and youth in Mumbai and Navi Mumbai and the large adjoining areas are made available all kinds of sports facilities. Sports plays a significant role in the development of citizens and the nation. The petitioner would not be incorrect in contending that the State ought not to lack behind in sports by not creating facilities in the urban centres and deprive the citizens of such facilities. It is high time that these issues are also considered to be of equal importance than the commercialization and concretization mantra.

107. We may also observe that the entire approach of not only the State Government but also the CIDCO has been nebulous to the importance which the sports have achieved in modern times. A progressive State can never be oblivious of such needs of the society and more particularly, from the international perception. It ought to be the solemn obligation of a Welfare State to encourage youth and children towards the sports, which is

not only the domestic but the international perception. This also contributes in creating a robust and a healthy society. There is ample material as also judicial pronouncements which would underscore the importance of sports. We will be failing in our duty if we do not refer to the relevant literature and the judicial opinion in such context.

K. Relevant decisions of the Supreme Court

108. In such context, at the outset we may refer to a learned article of Shri Vijay Kumar Singh, Assistant Professor of Law in Hidayatullah National Law University, Raipur, titled '*Issues in Emerging Area of Sports Law: Lex Sportiva*⁶'. The learned author has described the importance of sports when he says that 'sports, games and physical fitness have been a vital component of our civilization, as evident from the existence of the highly evolved system of yoga and a vast range of highly developed indigenous games, including martial arts. He says that the intrinsic linkage between sports and games and the human quest for excellence was recognized ever since the inception of human civilization, reaching its epitome in the ancient Greek civilization, which was the progenitor of the Olympic movement. In such context, the relevant extract of his article needs to be noted which reads thus:-

⁶https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2972059#:~:text=There%20are%20larger%20issues%20of,when%20he%20plays%20the%20game

“In India, history of sports can be traced back to the epic of Mahabharata which narrates an incidence where a game called Chaturang was played between two groups of warring cousins Pandavas and Kauravas. Sports have been treated as important aspect of human development. A famous saying goes "all work and no play makes jack a dull boy." Sport has traditionally seen itself as a private social activity separate from the reach of legal frameworks. As Foster explains, ‘legal norms are fixed rules which prescribe rights and duties; relationships within the social world of sport are not seen in this way’.

However, in the recent years the sports have not only remained an activity of physical development of body or an activity of entertainment, but has acquired a professional approach rather a business proportion involving many stakeholders. With high salaries, ticket prices, and profits, professional sports are no longer just a game, but a big business worth billions of dollars.”

1.1 Sports for Development

The International Charter of Physical Education and Sport, UNESCO, 1978 states that:

“Every human being has a fundamental right of access to physical education and sport, which are essential for the full development of his personality. The freedom to develop physical, intellectual and moral powers through physical education and sport must be guaranteed both within the educational system and in other aspects of social life.”

The United Nations adopted the theme of “Sport for Development and Peace” in its Agenda in 2001, which demonstrated the close linkage between Sports development and Youth development, and Youth development and the achievement of the Millennium Development Goals. Further, the United Nations General Assembly celebrated 2005 as the “Year of Sport and Physical Education” thereby emphasizing the need to integrate sport and physical education into the overall development agenda.”

(emphasis supplied)

109. Another article of Shri. Kanwal DP Singh and Harshita Singh⁷

⁷Amenability of Sports Law to Management of Sports in India, <https://www.amity.edu/abs/abr/pdf/Vol%2014%20No.2/2.pdf>

speaks about the importance of sports in the context of developing countries. The learned authors succinctly described the importance of sports, the relevant extract of which is as under:-

“The successful bidding to host an international sporting event is a unique opportunity for developing countries to showcase their progress, development and their world standing through their soft power. Similarly this Common Wealth Games had huge impact for India; it spread the message that India is country who is ready to lead on all front. CWG in India was the platform through which India gave the message to the World about Incredible India, Indian Army, Fastest Developing Nation etc. But this change and fast development in sports field needs a protection from the problems of anti-doping, sexual harassment and age fraud.

Now mega sports events added to the progress of any nation. That's why Nations are bidding to host the mega events like Olympic, World Camps, Common Wealth Games etc.

With the largest youth population in the world and one of the fastest developing economies, India has witnessed progressive growth in its sports industry in the past few years. Global events like Commonwealth Games, thriving new infrastructure and large fan following for diverse sports is making India a major sports destination.”

(emphasis supplied)

110. In the context of sports achieving a prime position in a large country like ours and as to what is the judicial opinion on such issues, can be profitably seen from some of the decisions wherein the Courts have laid emphasis on the importance of sports. In such context, at the outset, we refer to an order passed by a Division Bench of High Court of Jammu and Kashmir in **Court on its own motion vs. Union of India & Ors.**⁸ wherein

⁸PIL No.25/2018, dt. of decision 24/10/2018

the Court was dealing with efficiency of the sports facilities in the State of Jammu and Kashmir. The relevant observations of the Court on importance of sports and the facilities in that regard to be provided by the State, are required to be noted which read thus:

“4. There can be no doubt at all that sports enhances the physical and mental development of all persons. The participation in sports activities helps in development of healthy bones and muscles, increases fitness, improves sleep, enables socialization, improves the cooperation skills, boosts self-confidence. Being involved in a sport teaches valuable lessons in teamwork, most importantly, it takes away depression and reduces stress. Sports essentially facilitates development of patience, rectitude, comradeship, a new sense of togetherness and belonging.

5. It is critical to remember that sports provides a safe and healthy platform for learning control, coping with defeat and helps building resilience. Furthermore, the following the rules of game inculcates discipline, punctuality and respect for authority. Sports thus plays a vital role in the child’s development of self-esteem and self-worth.

6. The importance of sports in the life of any person cannot be sufficiently emphasized. Participation in sporting activities is a building block in bringing in habits of discipline, rectitude, perseverance, commitment and most importantly developing an ability to work in teams. It provides a critical outlet for the energy possessed by young children and the youth. It enables a healthy pastime for utilization of free times. It contributes greatly to the development of the health of the participating persons and motivates not only the participants but also the onlookers towards healthy competition and inculcation of a spirit of cooperation, thrill and enjoyment. Participation in healthy sporting and gaming activity facilitates sharing of skills, differential abilities as well as creativity. It contributes to building a more sensitive, innovative,

equitable, fair community and world.

7. *Such facilities are available to the children, youth and persons of all ages and culture in every part of the country.*

9. *There are more than 50 sporting events in which sports persons compete in the Olympic Games, like, Aquatics, Athletics, Archery, Badminton, Basketball, Boxing, Cycling, Football, Golf, Gymnastics, Handball, Judo, Shooting, Table Tennis, Taekwondo, Tennis, Volleyball, Weightlifting, Karate etc. Indian Sports persons competes in most of the Olympic events. Similarly, there are other multiple sporting events in which sports persons from India compete in other international competitions including the Common Wealth Games, Asian Games etc. These include inter alia, the Athletic Federation of India, Badminton Association of India, Basketball Federation of India, Billiards & Snookers Federation of India, Indian Body Builders Federation, Boxing Federation of India, All India Chess Federation, Cycling Federation of India, All India Football Federation, Swimming Federation of India, etc.*

10. *The Central Government has also ensured a budgetary allocation for the subject of sports which it is dispensing to the above sports bodies who have promoted themselves as being responsible for specific sports for all the States of the Country. There is no reason at all as to why the Government of India as well as the Government of Jammu and Kashmir and the sports bodies ought not to be required to ensure provisions of the sporting facilities in the State of Jammu and Kashmir.”*

(emphasis supplied)

111. The Supreme Court in **Krishan Lal Gera Vs. State of Haryana & Ors.**⁹ was dealing with the accessibility of the sports facilities in a stadium

9 (2011)10 SCC 529

to the public and not merely to the limited members of a club. It was held that sports complex cannot be converted into recreation club. On the importance of sports activities and the infrastructure required for the same, the Court made the following significant observations:-

“18. The stadium and infrastructure therein are meant for the benefit of the people. Sports promote health, spirit of competition, and social integration. The sports facilities in the stadium are meant to be used by residents and sportspersons of the city/town and surrounding areas. The prime area of the stadium cannot be taken over by persons in power and the rich and mighty for an elitist recreational club by paying a token annual rent of Re 1.

.....

21. Whenever nepotism, favouritism and unwarranted government largesse to private interests, threaten to frustrate schemes for public benefit, it is the duty of the High Courts to strike at such action. The stadium is meant for improving and developing sports and sportspersons. But slowly and steadily these are ignored by stating that the funds are not available for maintenance or people are not coming to use the facilities. The standard refrain is that a part of the stadia or sports facility can be used for non-sports activities generating funds for the upkeep of the stadium. In no time, an exclusive recreational club is established for those in power, those who have access to power and those who can afford to pay hefty sums to access the facilities by way of membership. Thus, valuable State resources meant for the general public, for the poor and the needy who require the facilities to improve themselves, are denied access and the entire facility becomes the domain of a chosen few. What started as a multipurpose stadium for the benefit of citizens becomes partly a private recreational club and partly a neglected unused stadium. What started as a club then goes into

private hands for commercial exploitation for a hotel or for conducting marriages and other functions. The only “sports” activity regularly held is in the card-room. Unfortunately, all this is done under the nose of the District Administration, in a centrally located property belonging to the Municipal Corporation and controlled by the District Sports Council.

22. Creating a sports ground, encouraging sports is a part of human resource development which is the function of the State. No part of the stadia or sports grounds can be carved out for non-sport or commercial activities to be run by recreational clubs or by private entrepreneurs. Recreational clubs are not sports clubs. Nothing prevents the Municipal Corporation or District Administration from running these sports facilities either directly or through registered associations without any restriction as to membership. After all human resource development and the health and welfare of the citizens is one of the main functions and responsibility of the Governments.

... ..

24. The country requires world-class infrastructure to train potential athletes and sportspersons. It is not sufficient if infrastructure is created, but such infrastructure and facilities should be properly maintained and optimum utilisation of the infrastructure should be ensured.

... ..

29. Lack of commitment to the cause of sports has ensured that India remains at the bottom rungs of any international sports event, though it boasts of one-sixth of world population. Development of sports infrastructure does not mean spending hundreds of crores for infrastructure for some international event and then allowing the entire infrastructure to go waste, but to ensure continuous and effective use of those facilities and provide adequate maintenance and upkeep. Basic sports infrastructure should be made available at village, taluka and district levels and there should be a comprehensive plan for optimum utilisation of the facilities already available so that they are accessible to

sportspersons. The Government cannot allow sports facilities and sports bodies to be hijacked by persons totally unconnected with sports for private gain or for the benefit of an exclusive few. The State of Haryana prides itself in giving importance to sports. We do hope that the State administration realises the needs of the society and the need for improving sports as an integral part of human resources development. Participation in sports and sport competitions builds patriotism and national pride, apart from other regular benefits.”

(emphasis supplied)

112. It is thus clear that sports facilities, which includes the physical area (land), equipments and the entire infrastructure so created are supposed to be utilized for such purpose, cannot be exploited to be used for any other much less a commercial purpose. If this be so, was it proper that in the present case, the entire land reserved for Government Sports Complex be abandoned.

113. In **K. Murugan V. Fencing Association of India, Jabalpur & Ors.**¹⁰ the Supreme Court observed that sports has a role to play in building up good citizens, which needs to be kept in view. The Court stated that despite money being allotted for the purpose of improvement of sports, the result has been considerably poor and deceptive. It was also observed that such criticism being heard from everywhere in this country also needs to be given due consideration by the authorities.

10 (1991)2 SCC 412

114. In the context of the law as discussed hereinabove, and the importance sports have gained internationally there is a foremost need to have effective and free sports facilities. We may also observe that the efforts of Government of India in promoting sports by allocation of funds for such purpose to the States under the National Service Scheme (NSS), Nehru Yuva Kendra Sangathan (NYKS), etc. are progressive steps being taken in such direction. In fact, when in the year 2003 the State Government proposed to set up a “Government Sports Complex” at Ghansoli, Navi Mumbai, it was certainly a very appreciable and a positive step towards development of sports in Maharashtra which certainly had a vision of a national contribution to sports implicit in it the larger welfare of youth and children on such count. Such foresight of the State Government certainly deserved an applause, except for the depletion of such vision and the miserable failure on the part of the State Government to take further steps to make the same a reality, by keeping the land in question vacant for all these years, which by any standard amounts to a gross inaction.

115. We have accordingly answered the questions as posed by us in the aforesaid terms.

116. In the light of the above discussion, certainly the petition deserves

to succeed. It is accordingly allowed by the following order:

ORDER

(i) The impugned decision of the State Government as contained in Government Resolution dated 26 March, 2021, in shifting the Government sports complex from Sector 12 and 12A, Ghansoli to Village Nanore, Taluka Mangaon, District Raigad is arbitrary, illegal and unconstitutional. It is accordingly quashed and set aside.

(ii) CIDCO is directed to handover the entire land in Sector 12 and 12A, Ghansoli, as earmarked for the Government Sports Complex to the State Government, to be utilized for the purpose of “Government Sports Complex”, free of cost or at a specified price in terms of Regulation 4 of the 2008 Regulations or on similar terms as received by CIDCO from the Navi Mumbai Municipal Corporation, for the adjoining land allotted for its sports complex.

(iii) The allotment of plot no. 4, Sector 12 in favour of respondent no. 5 as made by CIDCO vide allotment letter dated 27 January, 2017 is quashed and set aside. CIDCO is directed to refund

respondent no. 5 the amounts as paid by respondent no. 5 for allotment of said plot, along with interest @9% p.a. till the date of actual payment.

(iv) It is clarified that the State Government, if so desires, may develop the sports complex at Village Nanore, Taluka Mangaon as a District Sports Complex or an additional sports complex.

117. The petition is, accordingly, allowed in the aforesaid terms. No costs.

118. At this stage, Mr. Gangal, learned counsel for CIDCO, Mr. Samant, learned Addl. Government Pleader as also Mr. Jahagirdar, learned senior counsel for respondent no. 5 have prayed for stay of the aforesaid order for a period of eight weeks. We accept their request, however, in the facts and circumstances of the case, we stay paragraph 116(ii) of our order for a period of four weeks from today.

(JITENDRA JAIN, J.)

(G. S. KULKARNI, J.)