

A SOLAPUR MIDC INDUSTRIES ASSOCIATION ETC.
v.
STATE OF MAHARASHTRA AND ORS.

JULY 26, 1996

B [M.M. PUNCHHI AND K. VENKATASWAMI, JJ.]

Municipality :

C *Bombay Provincial Municipal Corporation Act, 1949/ Maharashtra Industrial Development Act, 1961.*

D *S. 3(3)/s. 56—Solapur Municipal Corporation—Notification bringing within territorial limits of Corporation the industrial estate/industrial area governed by Industrial Development Corporation—Notification challenged on the grounds that objects sought to be achieved under both the Acts were almost the same and that, as provided by s. 56 of 1961 Act, the State Government did not withdraw the industrial estate/industrial area from the purview of the Industrial Development Corporation—Held, object of establishing Industrial Development Corporation under 1961 Act is to attain orderly establishment in industrial areas and industrial estates of industries and to assist generally in organisation thereof whereas the purpose under 1949 Act is to provide for establishment of Municipal Corporations with a view to ensure better municipal government of cities—Topics of legislation being different, there is no conflict between the two.*

E CIVIL APPELLATE JURISDICTION : Special Leave Petition (C)
F No. 14830 of 1994.

From the Judgment and Order dated 29.6.94 of the Bombay High Court in W.P. No. 1314 of 1994.

With

G Special Leave Petition (C) No. 17325 of 1994.

From the Judgment and Order 29.6.94 of the Bombay High Court in W.P. No. 1312 of 1994.

H Dushyant A Dave, B.N. Naik, V.N. Ganpule, Raju Ramachandran,

M.D. Adkar, Ramdas P. Sabban, S.D. Singh, Ejaz Meqbool, A.M. Khan-wilkar (Ms. A.K. Verma, P.D. Tyagi,) Advs. for M/s. J.B.D. & Co., (NP), and S.M. Jadhav for the appearing parties. A

The following Order of the Court was delivered :

SLP No. 14830/94 and SLP No. 17325/94 : B

A Notification issued under sub-section (3) of Section 3 of the Bombay Provincial Municipal Corporation Act, 1949 (hereafter called the 1949 Act) dated April 23, 1992 published on April 28, 1992, was put to challenge separately by the respective two special leave petitioners before the High Court of Bombay whereby the industrial estate/area where they had put up their industries was brought within the territorial limits of the Solapur Municipal Corporation, Solapur. The High Court dismissed both the writ petitions *in limine* on identical grounds. One such ground was that admittedly no flaw could be found in the observance of the statutory provisions leading to the enlargement of the limits of the municipal corporation. This part of the order sustains by itself unquestionably. The second ground of challenge failed inasmuch as the writ petitions could not point out any conflict between the Bombay Provincial Municipal Corporation Act, 1949 and the Maharashtra Industrial Development Act, 1961 (hereafter referred to as the 1961 Act), as according to the High Court the two statutes had separate operational fields. Such view of the High Court has been challenged basically on the point that the objects sought to be achieved under the 1961 Act, were almost the same as that of the 1949 Act inasmuch as both go to provide civic amenities, maintenance and upkeep of public places etc. as statutorily enumerated in the respective two statutes. It was also maintained that under Section 56 of the 1961 Act the State Government has not yet withdrawn the industrial estate/industrial area from the purview of the Industrial Development Corporation as it has not yet recorded satisfaction in terms thereof as to its purpose having been substantially achieved. C D E F

Section 56 of the 1961 Act reads as follows : G

"Where the State Government is satisfied that in respect of any particular industrial estate or industrial area, or any part thereof, the purpose for which the Corporation was established under this Act has been substantially achieved so as to render the continued H

A existence of such estate or area of part thereof under the Corpora-
 tion unnecessary, the State Government may, by notification in the
 Official Gazette, declare that such industrial estate or industrial
 area or part thereof has been removed from the jurisdiction of the
 Corporation. The State Government may also make such other
 B incidental arrangements for the administration of such estate or
 area or part thereof as the circumstances necessitate."

It is not disputed that since the State Government has not yet
 withdrawn the industrial estate/industrial area concerned from the hold of
 the Corporation, the provisions of the 1961 Act continue to apply. The
 C Preamble thereof is suggestive of its objects sought to be achieved namely
 the orderly establishment in industrial areas and industrial estates of
 industries, and to assist generally in the organisation thereof, and for that
 purpose to establish the Industrial Development Corporation and for
 purposes connected with the matters therewith. The purpose of the 1949
 D Act on the other hand, as is suggestive from its Preamble, is to provide for
 the establishment of Municipal Corporation with a view to ensure a better
 municipal government of the cities in which municipal corporations are set
 up. These being the basic differences as to the ambit of the two statutes,
 the High Court, in our view, rightly arrived at the conclusion that there was
inter se no conflict between the two. There may be certain areas such as
 E provision for civil amenities in which there is identity of purpose but these
 are ancilliary and incidental to the main purpose of the respective two
 statutes. The suggestion drawn from the Assembly debates, to which our
 attention has been drawn, while passing the 1961 Act, suggestive of the fact
 that the industrial estates or industrial areas on ripening were meant to be
 F kept under the purview of the 1961 Act untill some civic administration in
 the form of a Panchayat or Municipality could take over is not supported
 by any statutory provision available in the respective two Acts. As said
 before the topics of legislation being different, there was no question of
 their rubbing against each other because being enacted under two different
 legislative fields.

G

We therefore find no merit in these petitions. They are accordingly
 dismissed. No costs.

R.P.

Petitions dismissed.