

State of Gujarat and another

Vs

Anand Municipality and others

Civil Appeal No. 1016 of 1973

(Kuldip Singh, N. M. Kasliwal JJ)

31.07.1992

JUDGMENT

1. Municipal Committee, Anand framed a draft scheme under the Bombay Town Planning Act, 1954 (The Act) and the Bombay Planning Rules, 1955 (The Rules). The draft scheme was sanctioned by the Government on September 19, 1966. Thereafter a Town Planning Officer was appointed under the Act to hear the objections filed by the plot holders and persons affected by the proposals in the draft scheme. The objections were invited by the Town Planning Officer from individual plot holders and affected persons. The Town Planning Officer finalised the scheme under the Act by giving an award dated February 11, 1969. Appeal from the award of the Town Planning Officer under the Act lies to the Board of Appeals constituted under the Act. The plot holders challenged the decision of the Town Planning Officer, inter alia, on the ground that the Rules of Natural Justice were not complied with and an opportunity as envisaged under the Act was not afforded to them. The Appellate Authority accepted the contention of the plot holders and remanded the case to the Town Planning Officer for fresh decision after affording full opportunity to the plot holders. The State of Gujarat challenged the remand order of the Appellate Authority by way of writ petition under Article 226 of the Constitution of India before the Gujarat High Court. A Division Bench of the High Court dismissed the writ petition on December 23, 1971. This appeal by the State of Gujarat is against the judgment of the High Court.

2. We have been taken through the judgment of the High Court by Mr. P. S. Poti, learned counsel for the State of Gujarat. He contends that the Appellate Authority and the High Court fell into a patent error in reaching the conclusion that proper opportunity of hearing was not afforded to the plot holders. According to him the opportunity is provided under Section 32 of the Act which has been fully complied with. It is well settled that the Rules of Natural Justice cannot be put in straight-jacket. The applicability of the said Rules depends on the facts and circumstances of each case. We are of the view that in the facts and circumstances of this case the Appellate Authority and the High Court were justified in reaching the conclusion that the plot holders and other affected persons were not given proper opportunity by the Town Planning Officer while deciding their objections. We see no ground to interfere. The appeal is dismissed with no order as to costs.

Appeal dismissed.

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