

IN THE HIGH COURT OF UTTARAKHAND

AT NAINITAL

HON'BLE THE CHIEF JUSTICE SRI VIPIN SANGHI

AND

HON'BLE SRI JUSTICE RAKESH THAPLIYAL

WRIT PETITION (M/B) NO. 238 OF 2023

18TH SEPTEMBER, 2023

Naveen Agarwal

.....Petitioner.

Versus

Nagar Palika Parishad, Mussoorie & another Respondents.

Counsel for the Petitioner : Mr. Piyush Garg, learned counsel.

Counsel for the Respondent Nos.1 & 2 : Mr. Bhuwan Bhatt, learned counsel.

Counsel for the Respondent No.3 : Mr. B.S. Parihar, learned Standing Counsel.

The Court made the following:

JUDGMENT: (per Hon'ble The Chief Justice Sri Vipin Sanghi)

The present order be read as in continuation of our order dated 06.09.2023. In pursuance of the said order, a compliance affidavit has been filed by respondent no.2. Paragraph No.4 of the said affidavit reads as follows:-

"4. That in compliance of the order dated 06.09.2023 respondents are submitting that the In-charge Secretary of Urban Development, Uttarakhand Government vide its letter no.1-39187/2022 dated 31.05.2022 has given permission to the Nagar Palika Parishad Mussoorie for the tender for collection of eco-tourist fees. In continuation of the said letter the Nagar Palika Parishad, Mussoorie issued NIT on 22.07.2022 for installation, operation and maintenance of eco-tourist fees based on electronic system. The contract for allotment of work was executed with the petitioner on 29.08.2022 considering his highest bid. The amount of eco-tourism fee deposited every year by the petitioner has been deposited by him in Nagar Palika Parishad, Mussoorie. The Nagar Palika Parishad has not issued any demand notice to the petitioner. It is imperative to point out here that the Directorate of Urban Development of Uttarakhand are being

investigate about the works related to collection of eco-tourism fees, in which through the investigation report of the Directorate dated 26.06.2023 the petitioner has been charged with financial loss of Rs.463.08 lakhs of eco-tourism fees for the financial year 2019-2020, 2020-21 and 2021-22, due to these reasons the No Dues Certificate not issued to the petitioner (Annexure no.6 & 7 of the writ petition)”.

2. From the above, it would be seen that the respondents appear to have undertaken some internal inquiry of their own, without the involvement of the petitioner, and on that basis, appear to have arrived at some unilateral conclusion, that the respondents have suffered financial loss of Rs.463.08 towards the eco-tourism fees for the financial years 2019-20, 2020-21, and 2021-22, when the petitioner was serving as the contractor for collection of eco-tourism fee.

3. Pertinently, no demand in respect of the alleged loss has been issued to the petitioner. Since there is no such demand, there is no question of their being any due against the petitioner, due to the aforesaid alleged financial loss.

4. Consequently, we allow this petition.

5. The petitioner has already been permitted by us to participate in the tender in question, even though, the petitioner had not been issued the No Dues certificate.

6. From a perusal of the aforesaid extract from the compliance affidavit of respondent no.2, it is evident that

actually, the petitioner had paid the dues on account of the eco-tourism charges and there was no default of the petitioner in respect of the eco-tourism charges payable by it. The petitioner was, therefore, wrongly denied the No Dues certificate. We, therefore, direct the respondents to proceed to consider the bid of the petitioner in respect of the tender, in question.

7. The petition is disposed of in the aforesaid terms.

8. Pending application, if any, also stands disposed of.

(VIPIN SANGHI, C.J.)

(RAKESH THAPLIYAL, J.)

Dated: 18th September, 2023

NISHANT