

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. 239 OF 2023

18TH SEPTEMBER, 2023

Rajendra Prasad Bangwal

.....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 incompliance of the order dated 06.09.2023 respondents are submitting that the Nagar Palika Parishad Mussoorie had issued letter no.4077/AA/202-23 dated 16.02.2023 and office letter no.4274/AA/2022-23 whereby directed to the petitioner to deposit Rs.64,44,077/-. The petitioner in continuation of it deposited entire demanded money in Nagar Palika Parishad Mussoorie. Furthermore, submits that enquiry is still going on at Urban Development Directorate, hence no demand notice of any kind was sent to the petitioner by the Nagar Palika Parishad, Mussoorie till the investigation was completed. The petitioner himself submitted cheque no.002817 on 19-08-2023 of Rs.27,49,562/- in the office of Nagar Palika Parishad Mussoorie, which has received on basis by Nagar Palika that till final outcome of the enquiry of directorate the said money will not consider as final liability, therefore till then the said money will deposit in

treasury of Nagar Palika Parishad, Mussoorie. (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 towards the ropeway charges, when the petitioner was serving as the contractor for collection of ropeway fee. The respondents have not quantified the alleged financial loss caused to the respondents in the aforesaid paragraph. However, Annexure-8 of the writ petition shows that the respondents are claiming that an amount of Rs.405.02 lakh has been computed, as the alleged financial loss suffered by the respondents.

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 ropeway charges, and there was no default of the petitioner in respect of the ropeway 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