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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELATE JURISDICTION
PUBLIC INTEREST LITIGATION NO.119 OF 2013

Abdul Malik Haji Mohammed Yunus ...Petitioner
vs.
The Malegaon Corporation & Ors. ...Respondents

Mr.Makrand Kale a/w Ms Aparna Deokar for the
Petitioner
Mr.Ratnesh Dubey i/b rutuja Ambekar for the
respondent No.1

CORAM : A.S.OKA, &
 REVATI MOHITE DERE, JJ.
DATE : AUGUST 17, 2015

P.C.:

1 A resolution was passed by the General Body of Malegaon Municipal Corporation on 20th September 2012 for inviting tenders for appointment of contractors for door to door collection of waste material in municipal corporation area. E-tenders were invited on the basis of the said resolution dated 20th September 2012.

2 The first challenge in this PIL is to the said resolution dated 20th September 2012. The second challenge is to the tender notice. It is not in dispute that the petitioner himself is an elected Councillor of Malegaon Municipal Corporation for the period from 2012 to 2017. Thus, when the impugned resolution dated 20th September 2012 was passed, the petitioner was a party to the said resolution. It

is not the case made out by the petitioner in the petition that he opposed the said resolution when it was placed before the General Body of the Municipal Corporation. On the basis of the said resolution, in March 2013, notice of E-tenders was published by the Municipal Corporation. Though the petitioner was aware of the resolution dated 20th September 2012, he filed the present petition 16th April 2013.

3 The petitioner being an elected Councillor the petitioner had an opportunity to oppose the resolution which was passed on 20th September 2012. The petitioner could have always moved the State Government under section 451 of the Maharashtra Municipal Corporations Act, 1949.

4 The challenge on merits is that the tender notice was for appointing only one contractor for doing the work in three zones, Zone 1, 2 and 4. His submission is that if one contractor is allowed to work in three zones, it will not be possible for him to carry out the works in terms of the directions issued by the Division Bench of this Court in Writ Petition No.1740 of 2013 and other connected matters on 2nd April 2013.

5 Only because three zones are clubbed together, one cannot jump to the conclusion that the contractor appointed for doing the work in three zones may not be able to act efficiently. Now that tender process is over long back. In the event, the appointed contractor commits any default, the

petitioner being an elected Councillor of the Municipal Corporation can always raise the issue before the General Body and seek an action against the contractor. Therefore, no case is made out for entertaining the PIL at the instance of the petitioner.

6 Subject to what is observed above, petition is disposed of.

(REVATI MOHITE DERE,J.)

(A.S.OKA,J.)

CERTIFICATE

Certified to be true and correct copy of original
signed Judgment/Order.