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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRI. PUBLIC INTEREST LITIGATION NO.32 OF 2015**

Ram Nagina P. Yadav	... Appellant
V/s.	
State of Maharashtra and ors	 Respondents

Mr. Abhishek Singh I/by P.K. Singh and Associates for the petitioner.

Ms. S.V. Sonawane, APP for Respondent No.1.

Mr. Milind Sathe, Senior Counsel a/w Mr.S.C. Pimple, for the Respondent Nos 2 to 4.

**CORAM : V.M. KANADE &
DR. SHALINI PHANSALKAR-JOSHI, JJ.**

DATE : 21st SEPTEMBER, 2015.

P.C. :

1. Heard learned counsel for the petitioner, learned AGP for the State and learned Senior Counsel for the respondent corporation.

2. The petitioner has filed this Public Interest Litigation seeking following reliefs.

(a) Direct a thorough court-monitored investigation by SIT and /or CBI and/or by any other independent

agency against the Respondents and/or any other persons involved in.

(b) Direct the State of Maharashtra and/or concerned authorities to initiate action against the erring department officials as well as against the Contractors, under the supervision of this Hon'ble Court.

(c) Direct the concerned department of M.C.G.M. to black list the Contractors/bidders involved in the irregularities and illegality of the tenders.

(d) Scrap the re-invite tenders dated 09/01/2015 M.C.G.M. and contracts granted/allotted therein to the Contractors with respect to the e-tender for reinstatement of trenches taken by various external and internal utilities for the period of two year (Zone-I-VII) 2015-17.

(e) Pending the hearing and final disposal of the present petition, this Hon'ble Court be pleased to stay the re-invite tenders dated 09/01/2015 M.C.G.M. and contracts granted/allotted therein to the Contractors with respect to the e-tender for reinstatement of trenches taken by various external and internal utilities for the period of two year (Zone -I VII)2015 -17.

(f) Call for fresh tenders/bids with respect to the e-tender for reinstatement of trenches taken by various external and internal utilities for the period of two year 9Zone I-VII) 2015-17.

3. According to the petitioner, there are several discrepancies in the tender process and therefore, the tenders which have been awarded by the Corporation in respect of reinstatement of trenches should be set aside. It is the case of the petitioner that on the basis of documents which were either available with the petitioner or which were obtained through Right to Information Act or through website of the Corporation, he came to know that the tender process which was initiated in January, 2015 was not correct and was illegal and as such directions may be given to initiate appropriate action/enquiry against the erring officers/bidders/contractors. It is submitted that in the circular which has been issued by the Municipal Corporation of Greater Bombay, dated 29.6.2011, it is mentioned that as far as possible negotiations cannot be held with the lowest responsive bidder. According to petitioners, the tenders which were invited in January, 2015 were less by 52% to 59.99%. It is submitted that thereafter Corporation cancelled e-tender

and fresh tenders were invited. It was submitted in the fresh tenders some persons who had given their bids earlier, had increased rate from 3% to 12%. It is submitted that therefore tenders which were invited through e-tender should be set aside and directions may be given to the Corporation to start fresh tender process. It is submitted that there was no urgency in awarding contract for reinstatement of trenches. In support of said submission, he invited our attention to some of the documents which are annexed to the petition. It is submitted that discrete enquiry was necessary and suitable directions may be given by this Court. It is submitted that the petitioner wanted to annex further documents in support of his case and hence he urged that the matter may be adjourned.

4. Learned counsel appearing for the Corporation invited our attention to the detailed affidavit filed on behalf of Corporation. It is submitted that when the Corporation realised that responsive bids were not justifiable and not workable, tenders were cancelled and fresh tenders were invited which was e-tender process. It is submitted that in response to e-tenders, bidders increased their bids from 3% to 12% and after

due deliberations, contract was awarded to the highest bidders. It was pointed out that whenever corporation found tender prices quoted by the bidders were lowest, negotiations were held with such bidders in the presence of A.M.D. (B.D.) and thereafter tender Committee thought it fit to award contracts.

5. On the contrary learned counsel, appearing for the petitioner submitted that some of the members were not present in the said meeting. He invited our attention to the minutes of meeting and pointed out that one Mr. Bhattacharya was absent. It was evident from the fact that he had not signed minutes. He submitted that 2 to 3 members were also not present.

6. After having heard learned counsel for petitioner, we are of the view that this is not fit case where we should interfere with the tender process since we find that the Corporation has followed proper procedure and we do not see any reason to set aside the contracts which have been awarded. Hence petition is dismissed.

[DR. SHALINI PHANSALKAR-JOSHI, J.] [V. M. KANADE, J.]

C E R T I F I C A T E

Certified to be true and correct copy of the original signed order.