

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO. 1657 OF 2015

AND

CIVIL APPLICATION (CAW) NO.722 OF 2015

(Siddhivinayak Bachat Gat Mahasangh Vs. The State of Maharashtra & others)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri K. H. Deshpande, Senior Advocate with Shri A. H. Lohiya,
Advocate for the petitioner.

Smt. B. H. Dangre, Government Pleader for respondent Nos. 1 to 4

Shri J. B. Kasat, Advocate for respondent Nos. 5 and 6.

Shri D. V. Chavan, Advocate for respondent No.7.

Shri Rohit Deo, A.S.G.I. for respondent No.8.

CORAM : B. P. DHARMADHIKARI

AND S. B. SHUKRE, JJ.

DATED : 08 APRIL, 2015

1. The matter was heard by this Court on 31/3/2015 and then hearing was adjourned to today. Today we have heard learned senior Counsel Shri Deshpande with Advocate Shri Lohiya for the petitioner, learned Government Pleader Smt. Dangre for respondents No. 1 to 4, learned Advocate Shri Chavan for respondent No.7 and learned Advocate Shri Kasat for respondent Nos. 5 and 6. Learned A.S.G.I Shri Deo appears for respondent No.8.

2. The contract of supply of Take Home Ration (THR) awarded to the petitioner-Company has been restricted only to Bhatkuli area by communication dated

26/02/2015. Insofar as other 5 areas, namely Nandgaon Khandeshwar, Chandur Rly., Dhamangaon Rly., Morshi and Daryapur, are concerned, the said contract has been cancelled. The petition has been filed challenging that cancellation urging that otherwise said contract was to continue for the period of three years.

3. Apart from violation of principles of natural justice, Shri Deshpande, learned senior Counsel has pointed out that various Bachat Gats coming together and constituting a Company is not an act prohibited by the Government Circular. According to him the nature of work is such that an individual Bachat Gat of women functioning locally cannot effectively perform it and hence, when several Bachat Gats have come together and formed a Company, the cancellation of contract only on that ground is unjustified. He has also pointed out that on 31/3/2015 this Court has granted *status quo* and in spite of that after 31/3/2015, the petitioner had not been allowed to supply THR at other five areas.

4. Learned Government Pleader submits that the petitioner never disclosed Bachat Gats of which it was composed. Idea behind entrusting said work to local Bachat Gats was to have standard supply effectively at

minimum rate. According to the Government Pleader, in the present contract, there were no local Bachat Gats involved and everything was being done from the office of the petitioner at Amravati. Hence, after receiving of complaint and after proper verification, the decision has been taken.

5. Our attention has been drawn by the petitioner to an affidavit tendered on 06/4/2015. It is submitted that on 05/4/2014 the petitioner has informed Divisional Commissioner about compounding of Bachat Gats (6 in number) with fact that there are 14 women in it. Our attention is also drawn to communication dated 04/3/2014, sent by Deputy Chief Executive Officer of Zilla Parishad, by which, while demanding necessary stamp papers for agreement, list of affiliated Bachat Gats was demanded. It is submitted that said list was accordingly submitted. As such the contention that everything was being done from the office of the petitioner at Amravati is incorrect. It is pointed out that local Bachat Gats are very much involved in the activity.

6. Learned Government Pleader has produced before the Court a document sent by Sou. Sulbha Sanjay Khodke in her capacity as President of the petitioner-

association. With it, list of 209 Bachat Gats spread over in different villages of all tahsils in Amravati district is enclosed. Learned Government Pleader Submits that this list does not tally at least for villages; Jawra, tahsil Nandakhed and Rajputpura, tahsil Daryapur. In the affidavit filed before this Court on 06/4/2015 in these villages entirely different Mahila Bachat Gats are disclosed by the petitioner.

7. Shri Deshpande, learned senior Advocate pointed out that this document is not on record and has been served upon him at the time of hearing only.

8. Prima facie we find that some disputed questions arise.

9. The first question, whether the petitioner was carrying out all its activities only from Amravati or the activities were being carried on locally by the concerned Bachat Gats? It is apparent that there is dispute about identity of said Mahila Bachat Gats also in some cases. The communication sent by Dy. Chief Executive Officer, Zilla Parishad, Amravati dated 04/3/2014 mentioned supra shows knowledge of respondents that agreement was being entered into with the association and a list of affiliated Mahila Bachat Gats was also demanded. The

impugned communication does not contain any observation about the said list or then the impact of this fact insofar as the cancellation of the contract in favour of the petitioner itself or grant of said work to third agency or third Bachat Gat.

10. In this situation, we find that interest of justice can be met with by directing respondent No.2 to extend opportunity of hearing to the petitioner. We direct the petitioner to appear before the said respondent for this purpose on **13/4/2015**. The petitioner can at that time produce relevant records in justification of its stand. After perusal of said record and material with it and after giving the petitioner an opportunity to meet that material, respondent No.2 shall pass fresh order within a period of next ten days.

11. Learned Government Pleader has explained to Court the procedure. According to her the orders for supply of THR had been placed in advance at least 15 days on the third Bachat Gats to maintain uninterrupted supply of THR from 01/4/2015. Accordingly, as the impugned order put an end to the work of the petitioner in five areas, the work orders were issued to others in advance and those persons have also supplied THR. Those persons are

not parties before this Court.

12. In this situation, we are not inclined to disturb that situation. However, the same shall be subject to further orders which respondent No.2 shall pass after extending necessary opportunity to the petitioner. The petition is thus partly allowed and disposed of.

13. In view of the above, Civil Application (CAW) No. 722 of 2015 filed by the petitioner for taking action under Article 215 of the Constitution of India is also disposed of.

No costs.

JUDGE

JUDGE