

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

WRIT PETITION NO. 2229 OF 2015

(Ankalesh Ashokrao Gaddewar & Anr. vs. Zilla Parishad, Gadchiroli thr. its CEO & Ors.)

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

Court's or Judge's orders

**CORAM : B.P. DHARMADHIKARI &
S.B. SHUKRE, JJ.
MAY 06, 2015.**

Heard Shri Kapgate, learned counsel for the petitioners and Shri Paunikar, learned counsel for the respondents.

2. Perused the order of the Chief Executive Officer, Gadchiroli, dated 17.12.2014 and orders of this Court in Writ Petition No. 308 of 2015 passed thereafter on 17.03.2015.

3. As directed by this Court, the Chief Executive Officer has again passed orders on 20.03.2015 reiterating earlier stand. In short, stand is, the funds made available through DPDC need to be spent as per Government Resolutions. The CEO has observed that there were no clear instructions permitting DPDC funds to be spent through Sarva Shiksha Abhiyan (S.S.A.) and because of absence of instructions, on 17.12.2014, the entire tender process in which the petitioners and 147 other tenderers participated, came to be cancelled. The CEO directed funds to be spent as per Government Resolutions/ Policy. In order, the CEO has instructed his office to

see that said funds of District Planning Department are spent through ZP, (Works Department). He has directed his office to hand over those funds to said office.

4. Apart from several other contentions, Shri Kapgate, learned counsel submits that the transferee agency i.e. Zilla Parishad (Works Department) is again going to float tenders and thereafter, allot work. Thus, there will be similar expenditure and similar exercise again.

5. Shri Paunikar, learned counsel submits that the Zilla Parishad being a statutory authority, is bound by the various Government Resolutions. The funds made available through DPDC need to be spent in the mode and manner prescribed by the Government Resolutions. The Government Resolutions do not speak of SSA and, therefore, earlier tenders were required to be cancelled.

6. After hearing respective counsel, we find that the tenders were floated earlier after due application of mind and by an Authority which is "State" under Article 12. About 148 persons have participated in that process. There is no prohibition and CEO has nowhere observed that the Government Resolutions prohibit utilization of DPDC funds through SSA. However, in the absence of express permission, he has found it necessary to change the implementing agency from SSA to ZP (Works Department). SSA was selected as Executing Agency under Section 109 of the Maharashtra Zilla Parishads and Panchat Samitis Act,

1961. The Zilla Parishad has not pointed out any resolution to the contrary passed by the Subject Committee.

7. In this situation, as the works are not to be carried out departmentally by Zilla Parishad and that is the stand before us, we set aside the order dated 20.03.2015. We restore Sarva Shiksha Abhiyan as implementing agency and tenders submitted to it by the petitioners and other tenderers. The implementing agency SSA shall proceed further in accordance with law.

8. Writ Petition is thus allowed and disposed of. However, there shall be no order as to costs.

JUDGE

JUDGE

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