

- 1 -

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

REVIEW APPLICATION NO.153/2014
IN
WRIT PETITION NO.3675/1989

Vice-Chancellor,
Dr.Babasaheb Ambedkar Marathwada
University, Aurangabad & another.
...Applicants..

Versus

Datta Gyanaba Bokde & others.
...Respondents...

.....

Shri R.N. Dhorde, Senior Advocate i/b Shri V.R. Dhorde,
Advocate for applicants.

Respondent no.1 served by publication in newspaper.

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CORAM: R.M. BORDE &
K.L. WADANE, JJ.

DATE: 20.06.2016

ORDER :

1] This is an application by the Vice Chancellor and the Registrar of Dr.Babasaheb Ambedkar Marathwada University, Aurangabad, seeking modification of the order passed by Division Bench of this Court in Writ Petition No.3675/1989 on 23.3.1990 as well as in Writ Petition No.3578/1991 decided on 2.12.1991.

2] The tender process initiated by the University in

- 2 -

respect of tender work of construction of building for Environmental Science Department, was a matter of challenge in Writ Petition No.3675/1989 at the instance of one Datta Gyanaba Bokde. The principal objection of the petitioner in the aforesaid petition was as regards the observance of procedure for acceptance of tenders by the University authorities. It was the contention of the petitioner that the University did not consider the sealed tenders received and has deviated from the procedure, which was required to be followed for allotment of the tender works. This Court, after hearing the parties, allowed the writ petition and directed the University to consider only the sealed tenders and select any one amongst them and if none of them is found to be suitable, then liberty was granted to the University to call for fresh tenders by publishing a fresh notice.

3] The University, it appears, instead of observing the order passed by the Court in its entirety, issued fresh tender notice. The sealed tenders already received in response to the earlier tender notice were not considered and the University chose to adopt course of issuing fresh tender notice. The said action of the University was a

- 3 -

matter of challenge in another writ petition being Writ Petition No.3578/1991. The Division Bench dealing with the matter quashed the action of the University and issued further directions to issue fresh tender notice and consequently the tender was allotted to the respondent no.4. It does appear that after disposal of second writ petition presented by the respondent no.1 herein – original writ petitioner on 2.12.1991, no further steps were taken by the University. The tender process was in fact abandoned and the tender work was not undertaken. After lapse of almost 26 years, after the decision in Writ Petition No.3578/1991, need is felt by the University to construct a separate building for Environmental Science Department. After passage of 25 years, initial plans of the proposed building prepared have also become obsolete since the requirement of the infrastructure for the department has increased manifold. It is pointed out that in the year 1991, the infrastructure was tried to be raised considering the intake capacity of the students for M.Sc. course as 9 students, which has been increased to 32 students each year. The intake capacity of the Ph.D. students has also

- 4 -

increased from 12 to 36. The building as proposed in the year 1990 is not viable and is not sufficient to meet the needs. It was, therefore, proposed by the University to revise the building plans and construct a new building, may be at a different location within the University premises. The University authorities deemed it appropriate before taking any final decision in the matter to seek permission from this Court since the order passed in earlier writ petitions is in force and the process for the construction of the building undertaken earlier was abandoned. Apprehending that any further action may lead to violation of the orders of the High Court, the applicants have moved this Court seeking necessary permission.

4] In spite of service of notice by way of publication, the respondent no.1 has not caused appearance in the matter.

5] It is a matter of record that the University authorities did not pursue the tender process at the relevant time and the project prepared in the year 1990 for construction of the building for Environmental Science Department was not implemented.

- 5 -

6] Considering the need of the University to augment its infrastructure to suit the present need, revised plans are required. Since the tender process initiated in the year 1990 has been abandoned, the directions issued by this Court in Writ Petition Nos.3675/1989 and 3578/1991 decided on 2.12.1991 are unenforceable after lapse of more than 15 years.

7] In the facts of this case, the reasonable request made by the University deserves to be accepted. It would be open for the University to revise the plans for construction of the Environmental Science Department building and raise the infrastructure as per the requirement of the University and the orders passed by the Division Bench in the earlier writ petitions would not be an impediment for adoption of such a course.

8] With the clarification as above, the review application stands disposed of.

(K.L. WADANE, J.)

(R.M. BORDE, J.)