

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 9808 OF 2015

Mauli Majoor Sahkari Sanstha Maryadit
through its Chairman Ram Gyanba
Huke and another .. Petitioners

Versus

The State of Maharashtra and others .. Respondents

Shri Devdatta P. Palodkar, Advocate for Petitioners.
Mrs. A. V. Gondhalekar, Addl.G.P. for Respondent Nos. 1 to 5.

**CORAM : S. V. GANGAPURWALA AND
K. K. SONAWANE, JJ.
DATE : 03RD AUGUST, 2016.**

PER COURT :

. Mr. Palodkar, the learned counsel for petitioners submits that, the respondent No. 1 has accorded administrative sanction for repair work of various residential buildings of police department and for construction of cement concrete roads. The petitioners submitted their tender and were allotted the work of repairing of police quarters of Georai and construction of cement concrete road in the police colony. The petitioner No. 2 was given work order on 20th April, 2015. The learned counsel submits that, the petitioner No. 1 has already withdrawn the writ petition, as such writ petition is now limited to the extent of the

petitioner No. 2. According to the learned counsel, the petitioner No. 2 has mobilized the entire manpower and machinery. However, the concerned Junior Engineer did not give mark out so as to enable the petitioner to start the work. Because of the political pressure the incharge Executive Engineer cancelled the work order on 11.09.2015. The only reason mentioned was due to inevitable reason. The learned counsel submits that, at the relevant time there was no concept of allotting work by inviting E-tender. The same was introduced only by Government Resolution dated 26.11.2014. The administrative sanction was prior to the said date. According to the learned counsel, the respondents have not even stated the said reason while cancelling the work order. It was only under the political pressure the work is cancelled. The impugned order cancelling the work order deserves to be set aside. The petitioner No. 2 is ready to do work as was allotted to it. Mr. Palodkar, the learned counsel also relies on the Government Resolution dated 24.04.2015.

2. Mrs. Gondhalekar, the learned Additional Government Pleader submits that, though the work order was issued on 20th April, 2015, the petitioner No. 2 did not commence the work for six months, though the condition in the work order was that the petitioner should complete the work in six months. Even proper procedure was not followed. E-tendering procedure was not

followed. Considering the said, the work order was cancelled.

3. The petition is restricted to the extent of petitioner No. 2, as the writ petition is already withdrawn in respect of the petitioner No. 1.

4. The work order to the petitioner No. 2 was issued on 20th April, 2015. The petitioner No. 2, it appears that, had submitted the tender on 17.03.2015. The same was without adherence to the E-tendering process as was mandated vide Government Resolution dated 26.11.2014.

5. Be that as it may, there appears to be dispute about petitioner not commencing the work as per the work order. The petitioner was to complete the work within six months. According to the petitioner No. 2 mark out was not provided by the concerned Engineer and as such the work could not commence. Nonetheless the work could not commence. The period of tender was of six months. More than one year has lapsed after completion of six months. Much changes must have taken place. The work was for repairs of police quarters and construction of cement concrete road. In this period many changes must have taken place also. The period of work order is over. Considering the fact that, E-tendering has to be followed and the allotment of work was without adhering to E-tendering

process, we are not inclined to consider the said rejection of work order after lapse of one year.

6. This Court vide order dated 29th October, 2015 had directed the parties to maintain status quo. If earlier any E-tendering notice was issued, the same would now be of no avail. The respondents shall now issue a fresh E-tender for the same.

7. Needless to state, if the respondents proceed to go ahead with E-tender process, the petitioner No. 2 would be at liberty to file its tender in the same. The writ petition is disposed of. No costs.

[K. K. SONAWANE, J.]

[S. V. GANGAPURWALA, J.]