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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

WRIT PETITION NO.10798/2015

Gram Panchayat, Asali-Tande,
Tq.Shirpur Dist.Dhule,
Through its Sarpanch
Smt.Ladkabai Gulchand Bhil.
...Petitioner..

Versus

The State of Maharashtra & others.
...Respondents...

.....

Shri V.B. Patil, Advocate for petitioner.
Shri V.H. Dighe, AGP for respondent nos.1 & 2.
Shri N.N. Desale, Advocate for respondent nos.3 to 5.

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**CORAM: S.V. GANGAPURWALA &
K.L. WADANE, JJ.**

DATE: 24.08.2016

ORDER :

1] Learned counsel for the petitioner submits that the State has issued the resolution dated 25.3.2015 wherein the Grampanchayats are allotted the works for the village panchayat area. According to the learned counsel, the State, by issuing resolution dated 25.7.2015, laid down the guidelines for doing the development work by the village panchayat. The petitioner time and again

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approached the respondent no.5 and pointed out the said Government resolutions and requested for allotment of the work order. However, the respondent no.5 issued notification calling upon tenders for the sanction of the work within the area of the petitioner – village panchayat thereby calling upon e-tenders. The learned counsel submits that the act of the respondent nos.4 and 5 is against the aforesaid Government resolutions. The petitioner had never shown its inability to do the work. On the contrary, the petitioner *suo motu* approached the authorities for getting the work.

2] Learned counsel for the respondent nos.3 to 5 submits that the work orders were issued pursuant to the tender notice and the major works are also completed.

3] Learned AGP states that the stand of the Government is clear that the work within the area of the panchayat has to be allotted to the panchayat through e-tender. The splitting of the work is also not permissible. It is only if the concerned grampanchayat shows its inability to do the work, then the work is to be issued and distributed amongst the labour cooperative societies, unemployed engineers or registered contractors, as the

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case may be.

4] We have considered the submissions canvassed by the learned counsel for the respective parties.

5] As far as the work, which is already allotted and the same has been completed to a large extent, the said work now cannot be allotted to the petitioner – grampanchayat.

6] The apprehension of the petitioner stands redressed by the affidavit filed by the Deputy Secretary, Rural Development Department, Government of Maharashtra. The State has clarified the position and has stated that it is the grampanchayat to whom the works would be allotted, as stated in the Government resolution dated 25.3.2015, and it is only if the grampanchayat shows its inability to execute the work, then it will be distributed in the proportion of 33 : 34 amongst the labour cooperative societies, unemployed engineers and qualified registered contractors respectively by the Zilla Parishad.

7] We reproduce the following excerpts from the said affidavit in reply:-

“6] I say and submit that, it is further made it clear that, the Grampanchayat will only eligible for the works, which are mentioned in

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Clause 2 of the Government Resolution dated 25/03/2015. Even, the Government has again published the Government Resolution on 30/10/2015 and thereby directed to adhere the guidelines and clauses of the Government Resolution in respect of E-Tenders.

7] I say and submit that, so far as the construction of Bathroom and Toilets within the area of Kedareshwar Temple situated at Prakasha, Tq.Shahada are concerned, the reference in respect of the order dated 17/06/2015 issued by the Zilla Parishad, Nandurbar is given, however, the said work order must have been issued as a special case by giving 30 days time limit for completion of work of Kumbhamela. For giving the work order in favour of Prakasha Grampanchayat is under the Nandurbar Zilla Parishad. Therefore, the answering respondents don't want to comment upon the same.

8] I say and submit that, the answering respondent has conducted the meetings in respect of publishing the E-Tenders for allotment of work orders which are more than 3 Lakhs. Considering the valuation of the works, it was decided to publish the tenders for works which are more than Rs.3 lakhs. Hereto annexed and marked as **EXHIBIT-"R-1"** is the copy of proceeding book.

9] I say and submit that, the answering respondent has further sought the clarification

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vide letter dated 23/09/2015 from the State Government, whether to publish the E-Tenders or to allot the works in favour of the Village Panchayats. Accordingly, the State Government vide letter dated 30/10/2015 has directed the answering respondent to follow the procedure as laid down in the Government Resolution dated 25/03/2015 and 27/05/2015. Hereto annexed and marked as **Exhibit-"R-2"** is the copy of letter dated 30/10/2015."

8] In view of above, the grievance of the petitioner now does not subsist. The respondent nos.3 to 5 henceforth shall follow these directions issued by the State while allotting the work within the grampanchayat area. Writ petition is accordingly disposed of. No costs.

(K.L. WADANE, J.)

(S.V. GANGAPURWALA, J.)