

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**CONTEMPT PETITION NO.217 OF 2016
IN
WRIT PETITION NO. 9633 OF 2014
WITH
CONTEMPT PETITION NO.218 OF 2016
IN
WRIT PETITION NO.9678 OF 2014**

DM Corporation Pvt.Ltd.

... Petitioner

v/s

Shri I.S. Chahal (IAS),
Principal Secretary, Water Resources
Department, Mantralaya, Mumbai
and others

... Respondents

Mr Vijay Patil with Mr Rahul Walvekar for Petitioner.

Mr P.P. Kakade, AGP for Respondent - State.

Mr Rahul Kulkarni for Respondent Nos.2 and 3.

**CORAM : DR MANJULA CHELLUR, C.J.
AND M.S. SONAK, J.**

DATE : 26TH SEPTEMBER, 2016.

P.C. :-

1. These two Contempt Petitions arise out of an order dated
13th April 2016 which reads as under :-

“1. The learned counsel for the State submits that

pursuant to the directions given by this Court by its order dated 4th April 2016, he has taken instructions from the concerned authorities. He submits that the State Government shall process the claim of the Petitioner within six weeks from today.

2. We, therefore, direct the State Government to process the claim of the Petitioner as expeditiously as possible and, in any case, within a period of six weeks from today and after the claim is processed and approved, they shall prepare budgetary provision immediately. It is also clarified that after the budgetary provision is made, the amount is transferred to KIDC, who shall promptly make the payment to the Petitioner. With these directions the writ petitions are disposed of. Civil applications filed in the writ petitions do not survive and are accordingly disposed of. Liberty is granted to apply.”

2. Aggrieved by non-compliance of so called directions given in the aforesaid order, these two Contempt Petitions are filed.

3. During the pendency of these two Contempt Petitions, a detailed order with regard to the amounts to be paid towards various bills came to be made in paragraph 1 and another amount of Rs.6,82 crores said to have been adjusted towards the interest payable as indicated in paragraph 2 of the order.

4. Now, learned counsel for the Petitioner admits receipt of Rs.16.94 crores which had to be paid within outer limit of 31st August

2016 and he also admits deposit of Rs.6.82 crores in the Court which was adjusted towards the interest payable by the Writ Petitioner on the mobilization funds advanced by the Respondent Authority.

5. Petitioner seeks permission to withdraw the amount of Rs.6.82 crores deposited in Court, contending that since its bills amounting to Rs.14 crores are pending and if at all he is liable to pay, this amount of Rs.6,82 crores, could be adjusted towards the claim of the Writ Petitioner.

6. The learned AGP submits that Rs.6.82 crores is an amount towards the interest payable in terms of tender invitation since the Department would allocate mobilization funds to the contractor or tenderer in order to make all preliminary infrastructure facility in time for commencement of the work so that the work entrusted will not be delayed. According to the Contempt Petitioner, he is not liable to pay the interest on the mobilization funds. The learned AGP submits that though the bills amounting to Rs.14 crores are pending, they are under process and finalization. Since there is no admission of any definite amount payable on behalf of the Respondents, we

decline the request of the Petitioner to allow to withdraw the amount of Rs.6.82 crores. On the other hand, if there is dispute with regard to Rs.6.82 crores, it has to be adjudicated upon after understanding the terms and conditions of the contract between the parties. Therefore, we direct the Respondent Authorities to withdraw Rs.6.82 crores deposited in the Court and the concerned Registry is directed to pay that amount to the Respondent Department.

7. So far as the contempt is concerned, since there were disputes with regard to the actual amount to be paid on the part of the Respondent – Department in settling the bills of Rs.16.94 crores but however, in terms of the directions of this Court dated 9th October 2016, the said amount is already paid to the Petitioner. Under the circumstances, we are of the opinion that it cannot amount to willful disobedience of the directions of the Court on the part of the Respondent Authority. Contempt Petitions are dropped, all contentions with regard to entitlement of Rs.14 crores etc. are kept open.

(M.S. SONAK, J.)

CHIEF JUSTICE