

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

**APPEAL FROM ORDER NO.840 OF 2015
WITH
CIVIL APPLICATION NO.1029 OF 2015**

Nitin Parshuram Warghade Appellant

vs.

Pune Municipal Corporation & Ors. Respondents

Ms. Manjiri Parasnis, Advocate for the Appellant.

Mr. Rajeev Khadapkar, Advocate for Respondents no.1 to 3.

Coram : **Smt. R.P. SondurBaldota, J.**

Date : 21st March, 2016

P.C.

1 This appeal is preferred against the order dtd. 12th May, 2015, by which the trial court dismissed the appellant's application for interim reliefs.

2 The appellant is the civil contractor, carrying on business as such since the year 2001-2002. He had been given a license by respondent no.1 Municipal Corporation of the category of Class-II in the year 2012-2013. He has also been issued tenders for various works by respondent no.1. It appears that one of the Corporators made complaint about the quality of

work done by the appellant as also several other irregularities committed by him while carrying out work under the tenders. On receiving the complaints, the Additional Municipal Commissioner (Special), Pune Municipal Corporation constituted a committee of four persons to inspect the work carried out by the appellant during the years 2011-2012, 2012-2013 and 2013-2014 and to submit report. After receiving the initial reports, the appellant was served with notice dtd. 10th June, 2014 stating the details of the irregularities in the manner in which the work was being done by him and calling upon him to show cause by 20th June, 2014. The irregularities included fabricating documents use of the vehicles for transporting the construction material. The appellant sent his reply dtd. 20th June, 2014 covering only one of the allegations and ignoring others. As regards the irregularities in the number of trips of the vehicles, he claimed that either it was a mistake on the part of his cleaner employed by him while giving the number of the vehicle or the mistake on the part of the employee of the Corporation in hearing the number. The reply was considered by respondent no.1 and the order dtd. 22nd August, 2014 was passed debarring him from municipal contracts for the years 2014-2015, 2015-2016 and 2016-2017. The appellant has challenged the order by filing the suit herein claiming that the order has been passed without observing principles of natural justice i.e. of giving him an opportunity of hearing. The appellant had suppressed in the plaint the issuance of the show cause notice given by the

respondent and the reply sent by him thereto. Therefore, on this ground alone, the appellant was dis-entitled to the discretionary relief of injunction. Perusal of the record shows that the complaint filed against the appellant was prima facie justified and the explanation offered therefor was not sufficient. Therefore, on a prima facie view even merits of the matter, there can be no error in the decision of respondent no.1. Further the trial court has noted that even the balance of convenience would be in favour of respondent no.1, since it has already issued work orders to new contractors who have started their work. The next aspect considered by the trial court is that the appellant having failed to establish that there will be irreparable loss caused to him if the interim reliefs are not granted. The court has noted that if the appellant suffers losses due to suspension or cancellation of his license, he would naturally be entitled for compensation in terms of money. Considering the order from any angle, there is no need to interfere with the same. Hence, the Appeal from Order is dismissed.

3 In view of dismissal of the Appeal from Order, the Civil Application does not survive. The same is accordingly disposed off.

(Smt. R.P. SondurBaldota, J.)