

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

**CRIMINAL APPLICATION NO. 45 OF 2016
IN
CRI. PUBLIC INTEREST LITIGATION NO. 35 OF 2015
WITH
CRI. PUBLIC INTEREST LITIGATION NO. 35 OF 2015**

Mr. Mehul Shantilal Katariya ... Applicant/Petitioner.

V/s.

The Municipal Corporation of Gr. Mumbai
& Others. ... Respondents.

Mr. M. V. Thorat, Advocate for the Applicant/Petitioner.
Mr. A. Y. Sakhare, Senior Counsel a/w. Surekha Sonawane,
Advocate for the Respondents - BMC.

**CORAM : V. M. KANADE AND
MRS.SWAPNA JOSHI,JJ.**

DATE : 04th OCTOBER, 2016

P.C. :

1 Heard the learned counsel appearing on behalf of the Applicant/Petitioner and the learned senior counsel appearing on behalf of the Municipal Corporation of Greater Mumbai.

2 The Applicant/Petitioner, who claims to be the whistle blower, approached this court, challenging the work order which was issued by the Corporation for purchase of

ambulances. The work order was issued on 21st May, 2009 after following the tender process. The Applicant/Petitioner suddenly got up from his slumber and came before this court as a whistle blower in 2014 i.e. after lapse of almost five years from the date of work order. In the meantime, the work order has been executed and purchase have been made, as the ambulances have been purchased for the benefit of the patients and accident victims. In the PIL, after hearing the petitioner, the court felt that, prima facie, it did not appear that the petition was filed with the bonafide intention of espousing any cause in the interest of the public at large. This court, therefore, in order to test bonafides of the petitioner had put a condition that he should deposit an amount of Rs. 5 lakhs in this court. This order was passed on 15th July, 2014. This order was not complied with by the petitioner and almost after a period of two years, now this application has been filed by the applicant/petitioner for recalling the said order of deposit of Five lakhs rupees in this court. Reliance was placed on some judgments and observations made by the Apex Court therein.

3 No explanation has been offered regarding the delay which has been caused in filing the present application after two years, for recalling the earlier order. In our view this application for recalling of the order cannot be entertained, firstly, on the ground of delay and secondly, on the ground that the order passed by this court cannot be reviewed again on

the ground that some judgment of the Apex Court was not cited.

4 Apart from the above conduct of the Applicant/Petitioner, we are, prima facie, satisfied that the Petitioner has not approached this court with bonafide intention of espousing the public cause but merely to harass the Corporation and successful bidder in whose favour the work order was issued. It is obvious that the Applicant/Petitioner has been set up by the persons who did not succeed in the tender process. Normally, this is a fit case where heavy costs should be imposed on such a frivolous public interest petition which has wasted the time of this court. In our view persons like this should be black listed and should not be permitted to file public interest petitions; however, we refrain to pass order of blacklisting the petitioner in this PIL.

5 The Criminal Application is dismissed.

6 Since there is non-compliance of the condition imposed by this court earlier vide order dated 15th July, 2014, the Public Interest Litigation already stood dismissed vide order dated 22nd June, 2016 passed by this court.

(MRS.SWAPNA JOSHI,J.)

(V. M. KANADE,J.)

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