

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

PUBLIC INTEREST LITIGATION NO. 66 OF 2015

Sameer I. Jamadar .. Petitioner
V/s.
The State of Maharashtra and ors. .. Respondents.

Mr. Rishikesh Soni a/w. Mr. Prabhakar Jadhav for the Petitioner.
Ms S.S. Bhende, AGP for the Respondent-State.

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

DATE : 25 NOVEMBER 2016.

PC.

1] By this purported public interest litigation (PIL), the petitioner, without disclosing any particulars about himself questions the work order dated 28 August 2014 issued by the Ichalkaranji Municipal Council (IMC)-respondent No.4 to respondent No.5 for development of an Underground Sewerage Scheme and Tenders of Water Supply Scheme.

2] Mr. Rishikesh Soni, learned counsel for the petitioner, submits that from the documents obtained by the petitioner under the Right To Information Act, 2005, respondent No.5 has been awarded the tender despite the fact that the bid submitted by respondent No.5 was 21.60% higher than the estimated costs determined by the IMC. Mr. Soni submits that the financial status of IMC is quite poor and in these circumstances, the IMC ought

not to have awarded the work order to respondent No.5, since, the bid submitted by respondent No.5 was 21.60% more than the estimated costs determined by the IMC itself. Mr. Soni also made reference to Income Tax notice dated 23 September 2013 served upon the IMC raising a demand of about Rs.1.35 Crores, which amount according to Mr. Soni was in fact due from Gour Infra Projects Pvt. Ltd. . For these reasons, Mr. Soni submits that this was a fit case to direct respondent Nos.3 and 4 to take action against the IMC under the provisions of Section 308 of Maharashtra Municipal Councils, Nagar Panchayats and Industrial Township Act, 1955.

3] We have duly considered the submissions of Mr. Soni and also perused the petition and the material placed on record alongwith. At this stage, we do not propose to go into the issue as to whether such petition has been instituted *pro bono publico*. However, we are satisfied that the grounds raised in support of the petition are quite misconceived and untenable.

4] In the first place, in matters of award of tender, generally, there is no scope for entertainment of any public interest litigation, unless the petitioner is in a position to demonstrate *mala fides* or un-reasonability, which will prejudice public interest. Even when a public interest litigation is entertained, the Court has to be careful to weigh conflicting public interest before intervening. The PIL cannot be used as a cloak for attaining private ends of a third party or of the party bringing the

petition.¹ Secondly in a work of such nature, it is quite routine that the authority inviting bid, prepares an estimate and indicate the estimated costs of work. This does not mean that the authority concerned can accept bids and issue work orders, only if the bidder submits a bid, which is less than or equivalent to estimated costs. In this case, the bids were invited and the documents produced on record by the petitioner indicate that the Committee of IMC took into consideration at least three bids. Finally, respondent No.5 was adjudged to be the lowest bidder (L-1), since, his bid was found to be lowest from out of bids received, even though, the same might have been 21.60% more than the estimated costs. There is no illegality or procedural impropriety in the matter of acceptance of such a bid, in the facts and circumstances of the present case.

5] The work awarded to respondent No.5, in pursuance of the work order dated 28 August 2014, according to the petitioner was required to be completed within two years. Learned counsel for the petitioner, however, submitted that some work remains to be done even as on date. This itself implies that the work has, at least, substantially progressed. The grievance in this petition is not that the work has not been undertaken in accordance with the terms of the work order. In any case, there is no reason to presume that the IMC will not take appropriate action against respondent No.5, in case, this is so. However, there is no case made out by the petitioner for striking down the work

1 Raunaq International Ltd. Vs. I.V.R. Construction Ltd. and ors.- (1999) 1 SCC 492

order dated 28 August 2014, on the grounds alleged and in any case, at this stage.

6] Accordingly, we dismiss this PIL. There shall, however, be no order as to costs.

(CHIEF JUSTICE)

(M.S.SONAK, J.)