

BDPPS

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
PUBLIC INTEREST LITIGATION NO.21 OF 2015**

Ramesh Dhanraj Solanki

..... Petitioner.

V/s

The State of Maharashtra and Others

..... Respondents.

None for the Petitioner.

Mr. A.H. Gokhale AGP for the Respondent/State.

Mr. E.P. Bharucha, Senior Counsel a/w Ms. Trupti Puranik for
Respondent/BMC.

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

DATE: 28th September, 2016

P.C.:-

1. None appears on behalf of the Petitioner. Even on earlier date also, Petitioner and his Counsel were absent when the matter was called out.
2. Mr. E.P. Bharucha, the learned Senior Counsel appearing on behalf of Respondent No.2 - Municipal Corporation has tendered an affidavit-in-reply filed by the Corporation.
3. The grievance of the Petitioner is that huge amount of money was siphoned off through Respondent No.2 – Municipal Corporation's

Officers in connivance with the private bidders by e-tendering. In para 2 of the PIL, it has been mentioned as to how, according to the Petitioner, this siphoning off the money has taken place. Various discrepancies in the tendering process have been mentioned by the Petitioner in the Petition. Petitioner is therefore seeking the following reliefs:-

“a) That this Hon'ble Court be pleased to issue a Writ of Mandamus or in the nature of Mandamus against the Respondent No.1 and pass such writ, orders and directions against the Respondent No.1 to form a Special Investigation Team.

OR IN THE ALTERNATIVE

by itself constitute and form an Independent Special Investigation Team of such persons as it deems fit and proper to investigate in the said e-Tender scam and submit a report to this Hon'ble Court of the said Investigation and for further orders and directions thereto of this Hon'ble Court with regards to :

i) steps taken and guidelines framed by the Respondent No.2 for giving wide-spread prior intimation and publicity of an up-coming e-Tender;

ii) steps taken and norms/ guidelines framed as to between what time a particular bidder can bid online for any e-Tender (*when it is opened*);

iii) steps taken and norms/ guidelines framed as to centralizing the said entire system of e-Tendering, making it computer-centric;

iv) steps taken for protecting the said e-Tendering system from hacking etc.;

v) steps taken for ensuring constant monitoring and supervision over compliance of all the above steps and guidelines framed.

b) That this Hon'ble Court be pleased to issue a Writ of Mandamus or in the nature of mandamus against the Respondent No.2 and pass writ, orders, directions and injunction against the Respondent No.2 and its employees from:

i) opening any e-Tender and/or inviting bids thereto unless the guidelines laid down herein in relation thereto have been followed and complied with;

ii) allowing access to the said e-Tendering system (except for bidding) through any computer other than those specified in the guidelines laid down herein in-relation thereto;

iii) allowing opening by or access to anybody into the said e-Tendering system or doing any activity in relation to the said e-Tendering system (*including bidding by the contractors*) during the non-working hours;

c) That this Hon'ble Court be pleased to issue a Writ of Mandamus or such other Writ in the nature of Mandamus against the Respondent No.2 and pass such writ, orders and directions against the Respondent No.2 directing it to forthwith disclose on oath:

i) the parameters for black-listing and/or setting up enquiry against candidates / contractors in the aid e-Tendering mechanism and the course of action to be taken against the said black-listed candidates and/or the candidates under enquiry, both pending the enquiry and after the outcome of the same;

ii) the name of its officer(s) under whose instructions a wrong statement was made before this Hon'ble High Court while hearing of the Writ Petition No.332 of 2015 on 06/02/2015 and thereafter this Hon'ble Court may be pleased to issue such appropriate order and directions against the said officer(s) including orders under the Contempt of Court Act as this Hon'ble Court may deem fit and proper;

d) That interim and ad-interim reliefs in terms of prayer clauses (a) to (c) hereinabove be granted;

e) That this Hon'ble Court be pleased to provide costs of this Petition to Petitioner;

f) That this Hon'ble Court be pleased to grant such other and further reliefs as this Hon'ble Court may deem fit and proper in the facts and circumstances of the present

case.”

4. The Corporation has filed a detailed affidavit-in-reply. It is stated in the affidavit-in-reply that taking into consideration the complaint filed by the Petitioner, Respondent No.2 – Municipal Corporation has brought about modifications/improvements in the e-tendering process. The improvements which have been brought about are mentioned in paras 4(a) to (d) of the said affidavit-in-reply. It is submitted that these modifications have been implemented by the Corporation. Further, it is stated that the action has been taken in respect of fraudulent tenders under the e-tendering system and 229 tenders were cancelled and full-fledge inquiry has been initiated against the Officers involved in the said irregularities which were committed in the tendering process. Lastly, it is stated that number of contractors have been blacklisted by the Corporation.

5. We are satisfied with the action taken by the Corporation. The grievance of the Petitioner does not survive and has been redressed by virtue of the action taken by the Corporation.

6. Petition is therefore disposed of.

(MRS SWAPNA JOSHI, J.)

(V.M. KANADE, J.)