

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

C.A.O.NO. 1045/2016 IN M.C.A.ST.NO.11248/2016 IN W.P.NO. 1966/2015.

M/s. S.S. Fabricators & Manufacturers, Nagpur and others.

-VERSUS-

Vidarbha Irrigation Development Corporation, Nagpur and others.

C.A.O.NO. 1046/2016 IN M.C.A.ST.NO.11245/2016 IN W.P.NO. 1965/2015.

M/s. Patel Engineering Limited, Mumbai and another

-VERSUS-

Vidarbha Irrigation Development Corporation, Nagpur and others

C.A.O.NO. 1047/2016 IN M.C.A.ST.NO.11242/2016 IN W.P.NO. 1963/2015.

M/s. Deepika Infratech Pvt. Ltd. and another

-VERSUS-

Vidarbha Irrigation Development Corporation, Nagpur and others.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders

CORAM : B.P. DHARMADHIKARI &
KUM. INDIRA JAIN, JJ.

DATE : JULY 20, 2016.

Heard Shri S.G. Jagtap, learned Counsel
for the applicants/VIDC/original respondent nos. 1 to
5, Shri S. Dewani, learned Counsel for the original
petitioners and Shri N.H. Joshi, learned A.G.P. for
respondent no.6.

2. Prayer is to condone delay of 24 days in
filing Misc. Civil Applications for review of the order
dated 16.03.2016 in Writ Petition Nos. 1966/2015,

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1965/2011 and 1963/2011. By said order dated 16.03.2016, after noticing that only because of communication dated 02.09.2013, forwarded by the Executive Director, the payment could not be released and as there was no other objection, the direction to release payment was issued.

3. Shri Dewani, learned Counsel appearing on behalf of the original petitioners has submitted that the delay is of about 52 days. He points out that the review application could have been preferred along with ordinary copy, and certified copy is not required. He also adds that no certified copy is filed with the review petition.

4. Shri Jagtap, learned Counsel submits that being a government corporation, the action could not have been taken on the basis of ordinary copy, and hence everything started moving only after receipt of certified copy.

5. We do not wish to go into these aspects. The fact is that the applications are preferred by the applicants only after receipt of certified copy.

6. After hearing the respective counsel on 29.06.2016, we have passed the following order :-

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“ Prayer is to condone delay of 52 days in filing review applications. The respondents in Writ Petition Nos. 1963/2015, 1965/2015 and 1966/2015 have filed proceedings for review of orders dated 16.03.2016.

During hearing, we find that communications dated 1.4.2016 and 16.04.2016 are being relied upon to substantiate prayer for review.

Affidavits on applications for condonation of delay and review applications are sworn by one Vasant Rangrao Bhade.

Two communications mentioned supra are not demonstrated to be connected with the present controversy or then with petitioners.

Prima facie we find that some vigilance enquiry is going on about work of Department itself. Why such documents were filed and review in unconnected matters is sought is not apparent.

Superintending Engineer of the Corporation to file a

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responsible affidavit placing on record necessary material to substantiate prayer for review and also decision to file review application before this Court.

The order be complied with within two weeks.

*Stand over
13.07.2016.”*

7. Accordingly the Superintending Engineer has filed affidavit dated 11.06.2016 in these matters. The said affidavit points out that there was earlier an SIT enquiry, and SIT was headed by one Dr. Chitale. The report submitted by Dr. Chitale expressed doubts about estimate and tendering process. Pipes were purchased and brought on site, though no pump house was constructed and therefore, need of enquiry into Jigaon Project was felt. Thereafter, reference to a communication dated 01.04.2016 and 17.06.2016 by the Anti Corruption Bureau and a response thereto by the review applicant, has been pointed out.

8. With the assistance of the learned counsel for the parties we have perused the record. Extract of SIT report produced as Annexure-A-4 along with the said affidavit of the Superintending Engineer mentions

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that the Committee noted purchase of pipes in large quantity and stored at site, though pump house was not ready and other works were yet to be completed. Admittedly this report is of February, 2014.

9. The Superintending Engineer has in his affidavit dated 11.07.2016 not pointed out whether any such pump house was later on constructed; whether pipes lying on the spot were used for construction of pump house or for any other purpose or then any misappropriation of pipes or over utilization was noticed. More than two years and 5 months have expired after receipt of Dr. Chitale Committee report. V.I.D.C. therefore, could have definitely placed on record position emerging from its measurement books and explained to the Court, the substance or otherwise in the objection raised by the SIT.

10. It is to be noted that this Court has passed orders on 16.03.2016 i.e. about two years after receipt of the said SIT report. After hearing respective sides, therefore, we had called upon a responsible and superior officer like the Superintending Engineer to place his personal affidavit on record. The affidavit

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does not advance the cause of the review applicants at all.

11. An attempt to rely upon the opinion/report given by the respective counsel to the review applicants and a communication sent by the Superintending Engineer pointing out that there was no scope of filing the review application, has been made by Shri Dewani, learned counsel. However, we cannot act upon any such opinion or internal office communication.

12. As we find that the grounds which prompted the applicants to seek review are itself not substantiated, we are not inclined to interfere. Proceedings are therefore, dismissed. No costs.

JUDGE

JUDGE

Rgd.

CERTIFICATE

I certify that this judgment/order uploaded is a true and correct copy of original signed judgment/order.

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