

pdp

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3871 OF 2017

Accord Watertech & Infrastructure
Pvt. Ltd.

.. Petitioner

Vs.

1. State of Maharashtra and ors.

.. Respondents

Mr. Shyam Dewani a/w Pratik M. Thakkar i/by Dewani Associates for
petitioner.

Ms. R. A. Salunkhe, AGP for State.

Mr. A. S. Rao for respondent no.3.

CORAM: NARESH H. PATIL &
DR. SHALINI PHANSALKAR-JOSHI, JJ.

APRIL 18, 2017.

P.C.

1. The petitioner – Company applied for a tender for comprehensive Operation & Maintenance of Waste Water System in Kalyan and Dombivli Division. The tender of the petitioner was accepted and parties entered into two agreements on 27/8/2014. The Work Order was issued on 5/9/2014. The contract was for five years' period. The petitioner carried out the work till 13/6/2015.

2. It is informed that a complaint was made to the State Government against the tender process and consequent execution of agreements between the parties. The State, by taking cognizance of the said complaint, directed an inquiry to be conducted through the Divisional Commissioner. After considering the documents and reply, the Divisional Commissioner submitted his report to the State Government stating therein that the tender process was faulty and entire process deserved to be quashed and set aside. Accordingly, the State Government issued letter dated 20/5/2016 signed by Mr. Shrikant Jambhavdekar, Desk Officer, Maharashtra State, addressed to the Commissioner, Kalyan Dombivali Municipal Corporation, directing to re-tender the process.

3. Based on the said communication, the In-charge Executive Engineer of the concerned department of Kalyan Dombivli Municipal Corporation issued a communication to the petitioner on 13/6/2016 informing the petitioner that the tender allotted in favour of the petitioner stood cancelled.

4. Learned AGP submits that State's reply by a communication

submitted by the Desk Officer on 12/4/2017 addressed to the learned AGP.

5. We have perused the documents placed before us. It is not known as to under what powers the State Government issued the communication to the Corporation. In the course of hearing, Mr. Rao, learned counsel appearing for the Corporation, submits that the State must have exercised powers under Section 451 of the Maharashtra Municipal Corporation Act, 1949. We do not notice any such reference of the provisions of law mentioned by the State while communicating its decision.

6. Obviously, the parties are bound by the contractual relations. Two agreements were executed between the parties. The contract was given for maintenance of the drainage system. It is informed that the petitioner was neither heard by the Commissioner nor by the State Government. Even the Corporation did not hear the petitioner before cancellation of the contract.

6. The petitioner submitted representation dated 9/6/2016 to the Principal Secretary (UD-2). It is submitted by the learned counsel for the

petitioner that the Hon'ble Chief Minister endorsed that the matter be heard by the State Minister and appropriate decision be taken. Thereafter the petitioner was called for hearing on 5/7/2016 at 1.00 p.m. in the office of the State Minister, Urban Development Department. It is the submission of the counsel that the Hon'ble State Minister heard the petitioner as well as the representative of the Corporation.

7. Learned AGP submits that in view of the endorsement made by the Hon'ble Chief Minister, the State Minister would pass a brief reasoned order within four weeks from today. The statement is accepted.

8. We accordingly direct the State to take steps.

9. Petition is disposed of.

(DR. SHALINI PHANSALKAR-JOSHI,J.)

(NARESH H. PATIL,J.)