

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

948 CONT. PETITION NO. 149 OF 2018

IN WP/12935/2017

BALAJI SAND SUPPLIERS THROUGH ITS PROPRIETOR
SATISH DNYANDEV WAGHOLE
VERSUS
MANUKUMAR SHRIVASTAV AND OTHERS

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Mr. Shaikh Mazhar A. Jahagirdar, Advocate for Petitioner
Mr. S.S.Dande, AGP for Respondents-State

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**CORAM : PRASANNA B. VARALE AND
MANGESH S. PATIL, JJ.**

DATE : 21.11.2018

PER COURT :-

1. Heard the learned counsel for the petitioner. The petitioner was before this Court with a grievance of non-compliance of the order of this Court dated 07.11.2017 in Writ Petition No.12935 of 2017. Notice was issued by this Court on 07.03.2018. A detailed affidavit is filed on behalf of the Additional Collector, Bhanudas Haribhau Palve / Respondent No.3. In the Writ Petition No.12935 of 2017 it was the submission before this Court by the petitioner that the petitioner was the highest bidder for allotment of sand excavation rights for the sand spot of village Wangi Khurd, Taluka Shrirampur, District Ahmednagar.

2. It was submitted in the Writ Petition that the petitioner being the highest bidder deposited $1/4^{\text{th}}$ of the amount and though the petitioner submitted his offer to the authorities to accept remaining $3/4^{\text{th}}$ amount of the bid, the offer application was kept pending without there being any decision on the application. Considering these facts, the Division Bench of this Court thought it fit to dispose the petition by issuing directions to the Collector to take decision with application tendered by the petitioner on 05.06.2017 in accordance with law, as expeditiously as possible, preferably within a period of three months from the date of order.

3. In the affidavit-in-reply filed on behalf of Respondent No.3, all details are submitted in respect of the process of floating tender, offers received and the petitioner being the highest bidder. In the first round though the petitioner was highest bidder and though he deposited $1/4^{\text{th}}$ of the amount he failed to deposit remaining $3/4^{\text{th}}$ of the amount, as such, exercise of fresh bidding was undertaken. The petitioner was permitted to participate in the subsequent bidding. The petitioner was the highest bidder. It is stated in the affidavit-in-reply that prior to the order of this Court dated 07.11.2017 the petitioner's application was already decided. The copy of

the order dated 02.03.2017 is also placed on record. By this order, the petitioner initially deposited 1/4th of the amount being the highest bidder. Then the order refers to the exercise of second bidding then the order directs the petitioner to deposit the 1/4th of the amount as per order dated 10.02.2017. Thus it is clear from the statements made in the affidavit-in-reply as well from the copy of the order dated 02.03.2017 that the competent authority passed the order on the application of the petitioner much prior to the order of this Court.

4. Then there is another order placed on record i.e. of 10.02.2017. It is in respect of the second or fresh auction permitting the petitioner to participate in the fresh auction. In the affidavit-in-reply, the authority refers to the Government Resolution dated 12.03.2013 and more particularly clause 17-B(3) of the Government Resolution. This is in respect of the confiscation of the earnest amount. Considering all these facts, what emerges from the affidavit-in-reply is prior to order of this Court dated 07.11.2017 the application of the petitioner was decided by the competent authority. It seems that this factum of decision was not brought to the notice of this Court as such, this Court was

under impression that the application is pending before the authorities and therefore it was directed to the authorities to decide the application.

5. Considering all these facts, in our opinion, the petition is filed only on assumption and on a misconception of the factual aspects. This being the factual position, no orders are required to be passed in the Contempt Petition. The Contempt Petition is accordingly disposed of. The petitioner is at liberty to challenge the orders passed by the competent authority dated 02.03.2017 if the petitioner feels aggrieved by the order and if the petitioner is so advised.

(MANGESH S. PATIL, J.)

(PRASANNA B. VARALE, J.)

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vmk/-