

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 13777 OF 2017

GANESHLAL NANDKISHOR DIPWAL (DIED) THROUGH LRS
AND OTHERS
VERSUS
DIVISIONAL CONTROLLER, MSRTC, JALNA

Advocate for Petitioner : Mr. M.S. Kulkarni h/f. Mr. A.N. Sikchi.
Advocate for Respondent : Mr. R.R. Mantri h/f. Mr. D.S. Bagul.

CORAM : RAVINDRA V.GHUGE, J.
DATED : 02nd August, 2018

PER COURT :

1. Considering the issue involved and the request of the learned advocates for the respondent, the hearing in these proceedings commenced on 01/08/2018. At the end of the day, it came from the learned advocates for the respective sides that when the respondent/Corporation has put forth a proposal in paragraph No. 7 of the affidavit-in-reply of the Corporation, dated 21/03/2018, the petitioners may consider the said proposal. It was also suggested by the respondent that since the development of the new Bus Stand at Jalna, is intended to be completed within one year, the Corporation would follow its policy decision with regard to the two wheelers/four wheelers parking stand and if tenders are invited or an auction proceeding is initiated, these petitioners can also apply and compete with bidders and the public at large.

2. On this suggestion, learned counsel for the petitioners sought some time till today so as to consult the petitioners and make a statement on his behalf.

3. For the sake of clarity, paragraph No. 7 of the affidavit-in-reply of the Corporation reads as under :

“7. I say and submit that, so far as the renewal/modification/construction of bus stand is concern, the work is in progress and the renovation will be done as per town planning regulations. The encroach area is required by the corporation for the purpose of Shifting Aurangabad operations towards this encroached area and to segregate passenger movement from bus movement area in the larger interest of passenger safety. The corporation for the time being is not issuing any new tender notice unless and until renovation work is completed but corporation gives undertaking to provide reasonable space for parking of auto Rickshaw, motorcycle and cars brought by commuters. After completion of the work of renovation/modification, Parking space will be earmarked as per town planning regulations, and the corporation may issue appropriate tender for selection of agency to collect parking charges if any. This office have no objection for allowing the petitioner to participate in any similar bid provided he clears all his legal dues and liabilities by the way of illegally using corporation land for his commercial earnings.”

4. Learned counsel for the petitioners, who are the L.R.s. of the erstwhile deceased licensee, submits on instructions, that the petitioners are willing to prefer the proposal set out in paragraph No. 7

reproduced above. A request is made that in the event the petitioners offer a reasonable competitive tender or put forth the best bid in an auction proceedings, they should be given a preference. Learned advocate for the Corporation submits that they have no reason to be antipathetic towards the petitioner. The Corporation would follow its policy for fulfilling the requirements of having the two wheelers and four wheelers parking stand and if any of such policy decision in which tenders or bids from the public at large would be invited, the petitioners would be at liberty to put forth the best offer. If they put forth a competitive offer, by which, they may be at the same level as of some other participants, the management of the Corporation would consider giving preferences to these petitioners. The request, however, is that the petitioner must vacate the premises within one week from today as the Corporation intends to initiate the development of the Bus Stand on war footing. It is fairly stated that if the development plan exceeds twelve months after its commencement, the Corporation may move a Civil Application before this Court apprising it of the development made and the further period within which the project would be completed. The development project is likely to commence expeditiously after work orders are issued for the construction activity.

5. In view of the above and by the consent of the parties, it is ordered as follows :

(A) This Writ Petition is disposed of by recording the statement of the petitioners that they would vacate the respondent's premises on/or before 10th August, 2018.

(B) The respondent/Corporation shall stand by its proposal set out in paragraph No. 7 reproduced above and the further statements made in the foregoing paragraph No. 4.

(C) In the event the Corporation requires a period beyond 12 months from the date of initiation of the development/construction activity, they could move a Civil Application to this Court intimating the progress achieved and the further time which is likely to be required.

(RAVINDRA V.GHUGE, J.)