

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 11907 OF 2016

Sambhaji S Patil and anr. ... Petitioners.
V/s.
State of Maharashtra and anr. ... Respondents.

Mr. Dilip Bodake for the Petitioners.
Mr. Akshay Shinde, B-Panel for the Respondent Nos.1 and 5- State.
Mr. G.S. Godbole a/w. Mr. Parag M. Tilak and Mr. Atharva Dandekar for
Respondent No.9.

CORAM : A.S. OKA AND M.S. SONAK, JJ.
DATE : 3rd OCTOBER 2018.

P.C.:

1] An affidavit is tendered by the learned counsel appearing on behalf of the respondent No.1-State of Maharashtra of Shri. Rajendra Kshirsagar, Joint Secretary, Revenue and Forest Department, Mantralaya, Mumbai. Paragraphs 6 and 7 of the said affidavit dated 1st October 2018 read thus:

“6. I say and submit that taking into consideration the reports submitted by the fifth Respondent, the proposal was forwarded to the Finance Department for its opinion with regard to the refund claim. The Finance Department concurred with the claim of refund of proportionate amount. Considering the report of the District Level Committee and the remarks of the Finance Department, a decision was taken by the State Government to refund an amount of Rs.7,31,56,712/- to the Respondent no.9 and necessary memorandum was issued on 4th March, 2016.

7. I say that the Petitioners have filed the instant petition in August, 2016, challenging the aforesaid order granting refund to the ninth Respondent and alleging irregularities during the tender process. I say that the irregularities like the Respondent No.9 not depositing

the required amount within the prescribed time limit had not been reported to the Government by the Additional Collector or the District Level Committee. I say and submit that in the light of contentions raised by the present petitioner in this petition, this respondent proposes to review under the section 258 of the Maharashtra Land Revenue Code, 1966, the earlier decision to refund the amount to the Respondent No.9, where opportunity of being heard will be given to the Respondent No.9 and the present Petitioner. I further say and submit that if during such review, the Government comes to a conclusion that the Responderline supplied)ent No.9 was not entitled the said refund, necessary orders shall be passed in review, directing recovery of due amount from Respondent No.9. I say that during said review, if it is found that the officers concerned have flouted the provisions of the policy regarding e-auction of sand ghats, necessary disciplinary action shall be initiated against those who are found responsible for such violations."

(underline supplied)

2] After having perused the prayers made in the petition, we find that considering the stand taken in the affidavit that the decision to refund the amount to the respondent No.9 was of the State Government and considering the fact that the State Government has assured that a review under section 258 of the Maharashtra Land Revenue Code, 1966 will be undertaken of the order of refund, at this stage, it is not necessary to entertain this petition. Moreover there is an assurance that if any violations are found to have been committed by the Government Officials, even action will be initiated against them.

3] The learned counsel appearing for the respondent No.9 submits that the proposed action of undertaking a review is illegal. Secondly, he submits that the petitioners have no locus to file this petition and that the petitioners are not entitled to be heard in the review.

4] In view of the aforesaid statements made in the affidavit filed by Shri.Rajendra Kshirsagar, it is not necessary for us, at this stage, to go into the question of the petitioners having any locus to file the present petition. The question whether the present petitioners should be heard in the review or not will have to be left to the authority hearing the review. The respondent No.9 is free to raise an objection on this aspect which will be decided by the concerned authority.

5] Subject to what is observed above and accepting the statements made in the affidavit of Shri. Rajendra Kshirsagar as the statements of the 1st respondent - State of Maharashtra, Writ Petition is disposed of.

6] Needless to add that considering the amount involved, the State Government will give necessary priority to the disposal of the review petition.

7] All contentions of the parties are kept open.

(M. S. SONAK, J.)

(A.S.OKA, J.)

Dinesh
Sadanand
Sherla

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by Dinesh
Sadanand
Sherla
Date:
2018.10.08
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