

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 1410 OF 2016

Dr. Ramprasad S/o Madhavlal Porwal ...Petitioner

Versus

The State of Maharashtra and Ors. ...Respondents

Dr. Ramprasad S/o Madhavlal Porwal, Party in person
Mr. S.G. Karlekar, Assistant Government Pleader for
Respondent/State
Mr. D.P. Bakshi, Advocate for Respondent No. 6
Mr. P.K. Lakhotiya, Advocate for Respondent No. 8
Mr. S.S. Thombre, Advocate for Respondent Nos. 9 and 10

**CORAM : S. V. GANGAPURWALA &
A. M. DHAVAL, JJ.**

DATE : 18th FEBRUARY, 2019

ORAL ORDER:

1. We have heard the party in person at length so also, the learned Counsel for the respondents.
2. The petitioner seeks directions against the respondent Nos. 1 to 5 to take appropriate legal action against the respondent Nos. 8 to 10 on the basis of enquiry report dated 10.08.2015. So also, seeks further directions to recover an amount of Rs. 1,55,70,965/-.
3. According to the party in person, initially, the work was allotted in which 100 pillars were to be constructed, which was amounting to Rs. Rs.68,41,347/-. Instead of that, the respondents

constructed bridge amounting to Rs.2,46,50,253/-. The same was without administrative sanction. It appears that the technical sanction was obtained from Maharashtra Jeevan Pradhikaran (MJP) as work of construction of pillars was not viable and feasible and it was necessary to construct the bridge. Certain irregularities stated in the special audit report were tried to be relied by the party in person. The respondents have relied on the subsequent special audit conducted, so also, the technical audit reports given by the Engineering College and Polytechnic College.

4. According to the Municipal Council, the work has been concluded. However, the entire amount has not been paid because of the pendency of litigation.

5. It is also submitted by the party in person that the criminal case is also filed. In the said criminal case, the charge sheet is also filed and the said criminal case is pending against the accused persons. The same would be decided by the Criminal Court.

6. In the present case, we do not have any documents to show that separately Rs.68,41,347/- were paid to the contractor on the ground of erection of 100 pillars. In absence of any such documentary evidence before us, it will not be possible for us to give any finding to that effect.

7. The Collector is the supervisory authority over the

Municipal Council. As it is stated that the work is concluded. If there are any irregularities or any illegal payments are made to the contractor, the Collector can consider the said aspect of the matter if the petitioner approaches the Collector in that regard. Considering the various technical sanctions produced on record and the reports so also resolutions, it will not be possible for us to give any concrete finding with regard to the work done.

8. One of the ground agitated by the petitioner is that well has not been dug. There is a report of the MJP stating that the well to the extent of 17.40 metres has been dug. We cannot sit as appellate authority over the reports of the MJP, unless it is shown that the same is patently illegal. The technical audits are also done subsequent to the special audit.

9. As observed supra, as of now, the work is concluded, there are also various technical reports on record, so also, the audit reports. In case the petitioner is of the opinion that the illegal payments has been made to the contractor, the petitioner may approach the Collector in that regard.

10. The writ petition is accordingly disposed of. No costs.

[A. M. DHAVAL]
JUDGE

[S. V. GANGAPURWALA]
JUDGE

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