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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

PUBLIC INTEREST LITIGATION NO. 22 OF 2018

Vijay Shivaji Pawar

.. Petitioner

Vs.

Mira Bhayandar Municipal
Corporation & Ors.

.. Respondents

Mr. Digajmaan G. Mishra a/w Jyoti Pandey and Sunita
Vishwakarma I/by Hammurabai and Soloman for petitioner.

Mr. N. R. Bubna a/w Mr. F. A. Wasif for respondent Nos.1 to 5.

Mr. M. M. Pabale, AGP for respondent No.8.

CORAM: PRADEEP NANDRAJOG, CJ. &
N. M. JAMDAR, J.

JULY 30, 2019.

P.C.

1. Heard learned counsel for the parties.
2. Case pleaded in the Public Interest Petition is that in March 2013 Mira Bhayandar Municipal Corporation invited E-tenders to lay down sewer lines connecting houses in the area comprising the territory of the Corporation. The funds were made available by the Central Government.

3. It is pleaded that the tender which was accepted was at a price abnormally high i.e. 145% above the estimated cost of the project. It is pleaded that the contractor was permitted to continue with the work beyond the time prescribed for completion of the work without levying liquidated damages. It is pleaded that contractor's running bills were cleared with escalation. It is pleaded that all sewer lines were not laid and yet penalty was not levied upon the contractor. Thus, the grievances would be that, firstly, contract was awarded at an exorbitant price. Second grievance would be that no liquidated damages were levied. The third grievance is for escalation to be paid. The fourth grievance is that no penal action is taken for incomplete work.

4. The reply brings out that the project report with schedule of rates was prepared in the year 2007 with reference to the schedule of rates for the year 2006-2007. Notice inviting tender was issued in February 2013. There was no response. Four extensions were granted for offers to be made. By August 2013 only two bids were received. Time was further extended in September 2013. Three bids came to be received. By that time, there was cost escalation and thus the lowest bid with estimated cost 145% above the tender price was accepted.

5. Concerning the grievance of extending time to connect houses by laying down sewer line and not levying liquidated damages, it is pleaded that the work of laying main sewer line was awarded to another contractor who did not lay down the main sewer line and thus pertaining to the tender in question since sewer line had to be laid from houses to connect the main sewer line, no penalty could be levied upon the contractor and he had to be granted extension to complete the work.

6. As regards not laying down all sewer lines from houses to the main sewer line, the response brings out that due to recession in the property market there was a slow down in the real estate business and as against estimated 11500 plots having houses where-from sewer line had to be connected to the main sewer line, the development work slowed resulting in only 7500 developed plots requiring connection of the sewer line from the plot to the main sewer line.

7. The issues and grievances raised in the Public Interest Petition have been adequately replied and we see no reason to direct any inquiry to be conducted.

8. The Public Interest Petition is dismissed without any costs imposed.

N. M. JAMDAR, J.

CHIEF JUSTICE