

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1320 OF 2019

The Firm. ..Petitioner.

Versus

Navi Mumbai Municipal Corp. and Another. ..Respondents.

Mr. Ankit Lohia and Pooja Batra I/b Mr. Rushabh Sheth for the
Petitioner.

Mr. Sandeep V. Marne for Respondent No. 1 and 2.

Coram : RANJIT MORE &
SMT. BHARATI H. DANGRE, JJ.

Date : **March 8, 2019.**

P. C. :

1. By this petition, the Petitioner is challenging the order dated 15th November 2018 passed by Respondent No.2-the Chief Engineer, Navi Mumbai Municipal Corporation whereby the Petitioner is debarred from ongoing and new projects of Navi Mumbai Municipal Corporation for the period of 3 years from date of issuance of order.

2. The Petitioner is debarred / blacklisted in the light of incident dated 25th May 2018 in which one 11 year old boy – Sourabh had died and two other boys got injured as a result of fall of sliding gate. Immediately after the said incident, a reference was made by the Respondent-Corporation to the Indian Institute of Technology, Mumbai [*for short "IIT"*] to ascertain the negligence on the part of the Petitioner. Accordingly, on 20th September 2018, the IIT gave the

report. The relevant part of the report is reproduced below :

*"This is in reference to your letter No. NMMC/CE/1082/2018 dated 29-05-2018 in connection with the mishap happened in the above mentioned building when the sliding gate was detached. A visit to the site of school building was made by me on June 1, 2018 in the presence of the Engineers from the NMMC to see the detached sliding gate. The gate structure and its supports were critically examined during the visit and the photographs taken are shown in the Figure 1. It was observed that there was no damage in the top supporting / holding arrangements of the gate. Also, no sign of scratches of the bottom wheels of gate observed on the road/ concreting work at the ground. In view of the above observations, it can be only said that the initially the gate was removed by the children and while fixing it back it fallen on them due to imbalance forces applied on it. **Hence, it is purely an accident due to mischief of children.** Necessary technical measures were taken for installing the gate and there was **no negligence found in the gate arrangement.**"*

3. In the light of above, it is clear that the Petitioner cannot be held responsible for the unfortunate incident in question in which 1 child died and two others were injured.

. In the backdrop of IIT report, the Petitioner filed various representations for reconsideration of the order impugned in this petition. Mr. Marne, learned counsel for the Respondent-Corporation submitted that the said representations of the Petitioner shall be reconsidered by the Respondent-Corporation in the light of IIT report and they will withdraw the order blacklisting the Petitioner. Statement accepted.

4. Subject to above, writ petition is disposed of. The Respondent-Corporation is directed to take appropriate action within the period of one week from today.

[SMT. BHARATI H. DANGRE, J.]

[RANJIT MORE, J.]