

Varsha Aniruddha Gadavi Caterers	)	Petitioner
versus		
The State of Maharashtra and Ors.	)	Respondents

Mr.Sanjay P. Shinde for respondent no.5.

DATED :- JULY 3, 2019

1. After having heard the writ petition for some time and after the variance in the pleadings and the oral submissions was pointed out, the court was disinclined to grant any relief in writ jurisdiction, in the presence of the petitioner's husband and on instructions from him, the writ petition is allowed to be withdrawn and dismissed as such.

2. We propose to impose costs. Our reasons for doing so are as follows:-

3. We are not impressed at all by this request and which comes after the petition was moved before a division bench of this court on 7th March, 2019. On that date, the following order was passed:-

“1] Leave to amend. Amendment be carried out within one week from today.

2] Issue notice to Respondents, returnable on 22/03/2019.

3] Mr.Sawant, learned AGP, waives service of notice on behalf of Respondents.

4] By way of ad-interim order, parties are directed to maintain status quo as of today.”

4. Pertinently, this is a tender process initiated by the Government of Maharashtra, Directorate of Health Services, Mumbai. That is for procuring bids from interested parties so as to supply food to patients and staff of the Government hospitals. That is restricted to District Kolhapur is no ground to then argue before this court that though the 7th March, 2019 order is continuing, no *prima facie* case was made out and balance of convenience was not in favour of the petitioner for no fault of the petitioner, the writ petition was not listed and therefore, costs cannot be imposed. This is feeble and weak attempt to avoid consequences of the obvious. This order would have continued to the detriment of the public at large had a civil application bearing no. 1463 of 2019 not been moved. The second vital fact is though this petition was moved and the order of 7th March, 2019 was

continued, later on, on account of a conditional order of this court, the writ petition stood dismissed for want of prosecution.

5. The civil application is moved by the petitioner/applicant for restoration and when the restoration was allowed, the counsel appearing for the petitioner submitted that the interim order be also restored. We refused to do so and we told him that we would rather hear him on merits of the petition and not accept his request. He agreed to argue the petition for admission.

6. We have found that there was no substance in the grounds and the challenge raised to the tender process or the decision to award contract to respondent no.6.

7. Once that was noticed by us, we are of the firm opinion that in matters affecting larger public interest and public health, no leniency should be shown to the parties like the petitioner. The fact that this ad-interim order had continued and it stood vacated was not shown to any of the authorities is enough for us to impose costs.

8. While we allow the writ petition to be withdrawn, we impose costs quantified at Rs.50,000/-. The costs shall be paid to the Director of Health Services, Government of Maharashtra within a period of four weeks from today, failing which, it shall be recovered as arrears of land revenue by forwarding an

authenticated copy of this order to the Collector of District Kolhapur.

9. The writ petition is dismissed as withdrawn in terms of the above.

(G.S.PATEL, J.)

(S.C.DHARMADHIKARI, J.)