

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 1034 OF 2019
IN
WRIT PETITION NO. 12913 OF 2018

Ashoka Infrastructure Pvt. Ltd.

...Applicant/
Original Respondent

In the matter of

The Secretary to Government Public Works
Department Mantralaya, Mumbai-32 and another

V/s.

Ashoka Infrastructure Pvt. Ltd.

...Respondent

Mr. R.S. Apte, Senior Advocate I/b. Mr. Aniruddha A. Garge, for
the Applicant.

Ms. Shruti D. Vyas, "B" Panel Counsel for Respondent/State.

Mr. Vinay M. Kulthe, Executive Engineer (In Charge), P.W.
Project Division, Pune.

CORAM : M. S. SONAK, J.

DATE : APRIL 26, 2019

P.C.:

1. The original order dated 25.10.2018 states that the applicants are required to give bank guarantee of Nationalized Bank. Mr. Apte Learned Senior Counsel points out that even in the contract which was entered into with the Government, there was requirement to furnish bank guarantee of a Scheduled Bank and therefore, on this occasion the applicant may be permitted to give

bank guarantee of Scheduled Bank instead of Nationalized Bank.

2. The Learned Counsel for the respondent as well as Executive Engineer who is present has opposed this request by pointing that the amount involved is of Rs.50 Crores. They pointed out that this amount has been deposited by the State Government and only liberty to be granted to the applicant to withdraw Rs.50 Crores subject to furnishing of bank guarantee of Nationalized Bank. Considering the nature of deposit, though submitted that initial order may not be modified.

3. In the peculiar facts of the present case, there is really no case is made out to modify the direction regards to furnishing bank guarantee from Nationalized Bank. If the State Government regards their interest will be better protected if bank guarantee of Nationalized Bank, there is no good reason to modify the earlier direction which was made after hearing the parties. The direction originally made, according to the Learned AGP will atleast ensure that a Nationalized bank guarantees the repayment, if Writ Petition succeeds.

4. Accordingly, this application is rejected. Since, the applicants wish to question this order before the Hon'ble Apex Court, time for furnishing bank guarantee is extended by period of 8 weeks. However, the amount which the respondents have already deposited in the Court are directed to be invested in the Nationalized Bank so that the same will draw interest.

(M. S. SONAK, J.)