

Sequeira

*IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION*

PUBLIC INTEREST LITIGATION NO. 136 OF 2015.

Mr.Manoj Suraj Pingle	.. Petitioner
Vs	
The Commissioner and others	.. Respondents

Ms.Indrayani M.Koparkar, for the Petitioner.

Mr.R.S.Apte-Senior Advocate I/b Mr.Vaibhav P.Patankar, for
Respondent Nos.1 and 2.

Mr.Manoj Suresh Pingle, Petitioner in-person present.

***CORAM : PRADEEP NANDRAJOG, C.J. &
N.M.JAMDAR, J.***

Date : 22 April, 2019.

P.C. :

1. We have heard the Petitioner who appears in person. Filed in public interest, it is pleaded by the Petitioner that the Nashik Municipal Corporation received a grant under Jawaharlal Nehru National Urban Renewal Mission to construct dwelling units. It is pleaded that in the month of May 2008 the contract was awarded to M/s Pawar Patkar Construction Private Limited at ₹ 157.38 crores.

It is pleaded that ₹ 5.55 crores towards extra work stated to be executed by the contractor was paid.

2. The extra work is leveling of the land before the tenements could be constructed.

3. As per the Petition the contract was on as is basis requiring the contractor to see the topology of the site and thus leveling work would be deemed to be included in the cost price.

4. The Petitioner relies upon audit objection that the work of leveling could not be treated as an extra item and thus the contractor was paid ₹ 5.55 crores in excess.

5. The prayer made in the Petition is to direct recovery of the amount paid in excess to the contractor.

6. After the Petition was filed an order was passed on 21 December 2015 to implead the Chief Engineer of the Nashik Corporation as well as the contractor. Impleadment has not been effected till date. The reply filed by the Corporation is to the effect that extra work towards leveling was paid as per clause 14 of the tender document. It is pleaded that the cost of leveling was not included in the cost per tenement. It is pleaded that the tenement cost was borne 50% by the Central Government, 25% by the State

Government and 25% by the Corporation. Though not expressly pleaded, meaningfully read, the stand is that cost of each tenement being identical it is obvious that money to be spent towards leveling was not included. It is pleaded that the Audit Para objected to by the Auditor was replied and the matter was closed evidenced by Exhibit 'D'. It is pleaded that it is for the Public Accounts Committee to look into the matter.

7. Suffice it to state that in the absence of the contractor being impleaded as a party inspite of the order being passed on 21 December 2015, direction as prayed for in the Petition cannot be issued. That apart, it would be expected that once the Public Accounts Committee looks into the matter the Corporation shall do the needful. Notice is discharged. Petition is disposed of.

N.M.JAMDAR, J.

CHIEF JUSTICE