

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

WRIT PETITION NO.10805 OF 2019

Vistacore Infra Projects Pvt. Ltd.

... Petitioner

Vs

Chief Officer,
Pandharpur Municipal Council & Ors.

... Respondents

Mr.N.V. Walavalkar, Senior Advocate with Mr.Kaustubh K. Kandpile
i/b Mr.Ajit Kenjale for the Petitioner

Mr.S.S. Aradhye for Respondent No.1

Mr.B.V. Samant, AGP, for Respondent Nos.2 and 3

**CORAM: S.C. DHARMADHIKARI &
R. I. CHAGLA, JJ.**

DATED: DECEMBER 2, 2019

P.C.:

1. Heard both sides.
2. The petitioner before us has challenged the order dated 19.7.2019.
3. Though that is styled as a communication from the Municipal Council, Pandharpur, the Chief Officer through this communication has proceeded to cancel the contract in favour of the petitioner, forfeiting the earnest money. In addition, the Pandharpur

Municipal Council has blacklisted the petitioner for two years.

4. On earlier occasion, we had granted time to Mr.Aradhya, appearing for respondent No.1, to take instructions.

5. On instructions, Mr.Aradhya says that the Municipal Council did not issue a show-cause notice nor did it hear the petitioner personally before passing the order of blacklisting. That therefore is not in accordance with law.

6. Once Mr.Aradhya makes this statement on instructions, then, the communication insofar as it blacklists the petitioner for two years, does not survive. The order of blacklisting, therefore, is set aside.

7. We are not expressing any opinion on the rival contentions insofar as the contractual duties and obligations are concerned. If there is any alleged breach, it is open for respondent No.1 to take recourse to such contractual remedies as are permissible in law. Equally, if the petitioner is aggrieved by cancellation of the contract and forfeiture of earnest money, all remedies of the petitioner are also intact and they shall not be affected by the order that is passed on the writ petition.

8. Once the blacklisting is set aside, the petition succeeds to a substantial extent. It is accordingly disposed of. No order as to costs.

(R.I. CHAGLA, J.)

(S.C. DHARMADHIKARI, J.)