

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 13096 OF 2018

Rajdeep Baban Chavan.

..Petitioner.

Versus

State of Maharashtra & Another.

..Respondents.

Mr. A. Y. Sakhare, Senior Advocate with Mr. S. S. Patwardhan I/b B.R. Mandlik for the Petitioner.

Ms. Shruti Vyas, AGP for the Respondent-State [B-panel counsel]

Mr. Uday P Warunjikar, Kshitija Wadkar and Mohansingh Rajput for Respondent No. 3.

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

Date : **March 6, 2019.**

P. C. :

1. Heard the learned counsel appearing for the respective parties. Respondent No.2 floated a tender to undertake the work of reclamation, dredging, quays, pile jetty for developing a fishing harbour at Karanja, taluka Uran, district Raigad. The Petitioner's tender was accepted and on 2nd January 2012 work order was issued. The estimated cost of tender is Rs.57,86,39,957/-. While carrying out the tender work, it was found that basin area consists of hard rock and not slush clay, which require rock dredging and therefore, it was not possible for the Petitioner to further carry out the said work unless earlier contract is modified. The Government thereafter by

resolutions dated 6th August 2018 and 27th September 2018 took decision to cancel / terminate the contract awarded to the Petitioner and decided to call for the fresh bids for rock dredging work. In pursuant of these decisions, the Petitioner's contract was cancelled. The Petitioner is challenging the Government Resolution/ decisions as well as the order cancelling his tender by filing present writ petition.

2. Mr. Sakhare, learned senior counsel for the Petitioner submits that the Petitioner's contract was cancelled without following principles of natural justice. He submitted that earlier State Monitoring Committee was constituted and decision was taken to allot the work of rock dredging @ 7,600/- per cubic meter to the Petitioner. He submitted that decisions impugned in the writ petition are arbitrary and therefore interference at the hands of this Court in exercise of jurisdiction under Article 226 of the Constitution of India is necessary.

3. Mr. Warunjikar and Ms. Vyas, the learned counsel for the Respondents contested the petition. They submitted that fresh tender was required to be called for in the light of revised administrative approvals, which covers a distinct range of work. They also submitted

that for whatever work carried out by the Petitioner, he is already compensated and the same work is excluded from the new tender. They lastly submitted that the petition requires no interference.

4. The scope of the tender work awarded to the Petitioner is mentioned at page 117. The scope of work under fresh tender is mentioned at page 38. We have perused the scope of work under both the tenders. There is vast difference between two. Besides, in addition to rock dredging work, the ancillary work is also stipulated in the new work. The estimated price of the earlier tender was Rs.57 crore and the cost of fresh tender is around Rs.149 crores. In the circumstances, we are of the opinion that the State Government was justified in calling for the fresh tender.

. That apart, as stated above for the work carried out by the Petitioner, he has been compensated and paid an amount of Rs.9 crore. If the Petitioner is aggrieved by the cancellation / termination of his contract, he has an alternate remedy of approaching the civil Court for damages. The Petitioner is also at liberty to participate in the fresh tender invited in view of the change in policy of the State Government. Taking totality of the facts and circumstances of the case into consideration, we see no reason to entertain this writ petition and

the same is therefore dismissed.

5. At this stage, Mr. Sakhare, the learned senior counsel for the Petitioner seeks continuation of the ad-interim order granted by this Court earlier. By the order dated 27th November 2018, this Court had directed the parties to maintain status quo. Thereafter by the order dated 20th December 2018, this Court directed that in case tender is issued in pursuance of the GR dated 27th September 2018, offer shall not be finalised until further orders from the Court. We have to take into consideration the fact that initially work order was given to the Petitioner in the year 2012, but not much progress is made. There is delay of almost six years in implementing the project. The State is keen to proceed with the project, which is of national importance. In this peculiar situation, we are not inclined to extend the ad-interim order further. Request for continuation of the ad-interim order is, therefore, refused.

[SMT. BHARATI H. DANGRE, J.]

[RANJIT MORE, J.]