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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

PUBLIC INTEREST LITIGATION NO.142 OF 2019

Navnath Sambhaji Bobade,
Age: 42 years, Occu-Agri.,
R/o Rajnagar, Nanded
District-Nanded

..PETITIONER

VERSUS

1. The State of Maharashtra,
Through its Secretary,
Finance Department,
Mantralaya, Mumbai-32
2. The Director,
Shri Guru Gobin Singhji
Institute of Engineering
And Technology, Vishnupuri,
Nanded 431 606
3. M/s Key Vee Enterprises,
8-8-384/1, Green Park Colony,
Main Road, Khamanghat, Ranga
Reddy, Hyderabad.

..RESPONDENTS

Mr U. A. Bhadgaonkar, Advocate for petitioner;
Mr S. G.Sangle, A.G.P. for respondent No.1

**CORAM : PRASANNA B. VARALE
AND
R. G. AVACHAT, JJ.**

DATE : 29th January, 2020

ORAL ORDER:

Learned Counsel for the petitioner vehemently submitted that the petition espouses a public cause. It is further submission of the learned Counsel for the petitioner that the petitioner is an agriculturist

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and a resident of Nanded. It is then submitted by learned Counsel for the petitioner that respondent No. 2 i.e. the Director, Shri Guru Gobin Singhji Institute of Engineering and Technology, Nanded was to undertake the extension of hostel building and by following the necessary procedure, the contract was awarded to respondent No. 3 - a private contractor.

2. It is then submitted by learned Counsel for the petitioner that the petitioner sought for information adopting the course of approaching the authority under Right to Information Act. It is further submitted before this Court that the petitioner submitted representation to respondent No.2 on 18th October, 2019.

3. On going through the information made available to the petitioner and the representation, it reveals that it was submitted in the representation that the excess amount to the tune of Rs.1,07,80,366/- was paid to the contractor. It was also submitted in the representation that the news item was published in the newspaper and a notice was issued to the contractor, seeking recovery of the excess amount to the tune of Rs. 12,83,432/- and then it is submitted that in spite of various notices, the contractor failed to return the excess amount. The representation carries the subject matter, whereby the petitioner is making a request for registration of an offence against the private

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contractor and to recover the amount to the tune of Rs. 91,59,894/- and the representation concludes with a statement that instead of taking any step, respondent No.2 is seeking recovery of the amount from 19th December, 2009 along with interest @ 18% p.a. There is another representation submitted to respondent No.2, dated 25th September, 2019, which is placed on record.

4. Considering the very grievance raised in the petition, we are of the opinion that the parties, namely, respondent Nos.2 and 3 have entered in a commercial transaction by way of a contractual agreement. Needless to state that, in case the tender notice was issued while allotting the tender in favour of the successful bidder and while issuing work order, the parties must have entered upon a document under the terms of the contract. When a query was put to learned Counsel for the petitioner, he made available the copy of Articles of Agreement arrived at between the parties. This document runs in more than 135 pages. It may not be necessary for us to refer to other details, suffice it to say that as per the usual terms of the agreement on the backdrop of tender notice, this Article of Agreement also refers to the necessary procedural formalities, such as, the costs details, certificates and payments, materials and workmanship, possession, completion and postponements, loss and expenses caused, co-ordination of the work, guarantees to be submitted by the contractors to be maintained for the stipulation of period and then an arbitration clause.

5. When it is not in dispute that the entire transaction is covered under a contractual obligation between the parties by way of work order issued in favour of the successful bidder, following the tender documents and Article of Agreement, merely because the petitioner is claiming himself to be a social activist and associated with some organization and submitted the representation to respondent No. 2, this Court cannot lose sight of the above referred material factors and also another important feature, namely, there is a response referred to in the representation through learned advocate, with whom the contact was established through written communication and learned Counsel informed that the grievance raised by the petitioner is in respect of time barred claim.

6. Considering all the aforesaid facts, we are of the clear opinion that the present public interest litigation involves no element of public cause, as alleged by the petitioner. The present public interest litigation, thus, being filed in this Court only on assumption and presumption, is devoid of any merit and the same is dismissed at the threshold.

(R. G. AVACHAT, J.)

(PRASANNA B. VARALE, J.)

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