

Sonali

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 7042 OF 2017**

Eugene Biosciences Pvt Ltd	...Petitioner
<i>Versus</i>	
Directorate of Geology and Mining & Ors	...Respondents

**Mr Rafique Dada, Senior Advocate, i/b Yuvraj Narvankar for the
Petitioner.**

**Mr PP Kakade, GP, with Mr RP Kadam, AGP for the Respondent-
State.**

**Mr Rohit Gupta, with Mr Bhargav Kosura, Mr Aayu Saxena, i/b
IndusLaw, for Respondent No.2.**

**Dr Veerendra Tulzapurkar, Senior Advocate, with Mr Mandar
Soman with Mr Rahul Garg, Ms Prachi Raval, Ms Vidhi
Chikhal, i/b Satyam Israni, for Respondent No.3.**

Mr Ramesh D Redekar, Chairman of Petitioner Co, present.

**CORAM G.S. Patel &
 Madhav J. Jamdar, JJ.
DATED: 3rd December 2021**

PC:-

1. This matter was argued finally at some length on 1st December 2021. We listed the matter today for orders.

2. Today, on behalf of the Petitioner, Mr Ramesh D Redekar, Chairman of Petitioner company is present in Court. He instructs his counsel in Court to seek a withdrawal of the Petition but with liberty to adopt appropriate proceedings.

3. We have made it clear that this liberty to adopt appropriate proceedings is not to be construed to mean or imply a continuance of the previous ad-interim order granted in this Petition.
4. We permit the withdrawal of the Petition with liberty as prayed.
5. The previous ad-interim order dated 27th July 2017 stands vacated forthwith.
6. In any proceeding that the Petitioner files before a Court of competent jurisdiction, all contentions are expressly kept open on both sides including all contentions of the Respondents as to maintainability, limitation and the existence of any arbitration agreement etc.
7. We will only request the Court that the Petitioner seeks to move to take up the application for interim relief on a priority basis. That court will decide any such application made by the Petitioners (as also any counter-application made in any proceedings instituted by the Petitioner) on merits without being influenced by any of the orders passed in this Writ Petition.
8. We clarify further that both sides will be entitled to rely on ordinary copies of all filings made in this Writ Petition including Affidavits, Notes of Arguments, Written Submissions and Compilations of Authorities. Both sides may also rely on the report dated 13th March 2018 by Shri Kiran Bobde, Deputy Registrar (IT)

of the High Court and Shri Jagdish Chhailkar, Technical Director, NIC, High Court, Bombay.

9. We also make it clear that neither Shri Bobde nor Shri Chailkar will be required by any Civil Court to file any Affidavit before that Court. As to whether in later proceedings either Shri Bobde or Shri Chailkar can be issued a summons to give evidence is a matter that is left open having regard to the fact that their joint report was made at the specific directions of this Court in the Writ Petition and was not an expert report produced by either side.

10. On further instructions obtained, as this order was being passed, the Petitioner's Advocate states that the Petitioner proposes to invoke arbitration since there is an arbitration clause as between the Petitioner and present Respondent No.2, MSTC Ltd. The successful tenderer, Respondent No.3 cannot be a party to an arbitration although in any Section 9 application different considerations may apply.

11. Lastly, this order is not to be construed to mean that our directions that all contentions are left open and that documents can be relied on is confined only to a civil suit. It extends also to any arbitration proceeding that the Petitioner may choose to adopt.

12. For the purposes of completeness, we clarify that there is no restraint on the 1st Respondent from issuing the necessary Letter of Intent. It is free to do so as soon as it wishes, but this is not a direction to the 1st Respondent to do so.

13. The Petitioner undertakes not to approach any Court without prior written notice of 72 hours to all three Respondents.

14. All concerned will act on production of a digitally signed copy of this order.

(Madhav J. Jamdar, J)

(G. S. Patel, J)