

BASAVRAJ
GURAPPA
PATIL

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

WRIT PETITION NO.3723/2021

Patil Construction and
Infrastructure Ltd.

..... Petitioner

Vs.

The State of Maharashtra & Ors.

..... Respondents

Ms. Pradnya Talekar I/b. Talekar & Associates for the
Petitioner

Mr. R. P. Kadam, AGP for the State

Mr. Kedar Dighe for Respondent Nos.2 to 4

Mr. Ramdas Tambe, Joint City Engineer, Drainage
Department, PCMC – present in court.

**CORAM: K.K.TATED &
PRITHVIRAJ K. CHAVAN, JJ.**

DATED : AUGUST 11, 2021

P.C.

1 Heard.

2 Rule.

Rule is made returnable forthwith, by consent of the
parties.

3 By this petition under Article 226 of the Constitution
of India, the Petitioner is challenging the tender notice
issued by Respondents dated 16.06.2021 to the extent of re-
tendering the work, that was awarded to the Petitioner in

respect of the Sewage Treatment Plants at Pimple Nilakh, Bopkhel and Chikhali.

4 The learned counsel for the Petitioner submits that because of dispute between the Petitioner and Respondent No.4 as per the general conditions of paragraph 28, they made Application dated 29.06.2021 with the Commissioner. She submits that till today, said Application is not decided by the Commissioner. She submits that it is specifically stated in clause 28 of the general conditions of contract that in case of any dispute arises out during execution of works, no arbitrator shall be appointed for redressal of the dispute. In this regard, the decision of the Commissioner, PCMC shall be final and remain binding on both the parties.

5 During the course of arguments, when this court called upon the Respondent, whether they have decided the Petitioner's Application dated 29.06.2021, after taking instructions from the concerned officer, he made a statement that it remained on their part to do so. He submits that they are ready and willing to decide the same on merits within 10 days from today. He made a statement, after taking instructions from the concerned officer, that they will not take any further steps as per the tender process dated 16.06.2021 till the date of decision of the said application and one week from the date of communication of the order to the Petitioner.

6 In view of these facts, following order is passed:

a. The Commissioner, Respondent No.2 – Pimpri Chinchwad Municipal Corporation to decide the Petitioner's application dated 29.06.2021 (Exhibit A3 page 228 of the Writ Petition) which was filed as per clause 28 of the General Condition of contract, as early as possible, but in any case on or before 27.08.2021 and communicate the order in writing to the Petitioner.

b. Liberty granted to the Petitioner, if they so desire, to file an additional compilation of documents and submission, if any, with Respondent No.2, in support of the application dated 29.06.2021 on or before 13.08.2021.

c. The statement made by the learned counsel for the Respondent that they will not take any further steps as per tender notice dated 16.06.2021 issued by Respondent No.4 till the decision of the Petitioner's application dated 29.06.2021 and one week from the date of communication of the order to the Petitioner, is accepted.

d. All contentions of the parties are kept open.

e. Rule is made absolute accordingly.

f. No order as to costs.

(PRITHVIRAJ K. CHAVAN, J.)

(K.K.TATED, J.)