

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.8437 OF 2022

M/S SHREYASH ENTERPRISES

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

.....
Advocate for Petitioner : Mr. P. S. Dighe h/f Mr. V. R. Dhorde
GP for Respondent Nos.1 to 3 -State : Mr. D. R. Kale
Advocate for Respondent No.4 : Mr. S. G. Kawade
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CORAM : RAVINDRA V. GHUGE &

ARUN R. PEDNEKER, JJ

DATE : 06/10/2022

ORDER : (Per ARUN R. PEDNEKER, J.)

1. By the present petition the petitioner is challenging the Government Resolution (GR) dated 21/07/2022, granting Stay to all the works under the development scheme, namely 'Bharat Ratna Dr. Babasaheb Ambedkar Samajik Vikas Yojna' being arbitrary and violative of Article 14, 19 (1) (g) and 243W of the Constitution of India.

2. We have heard the learned Advocate Mr. P. S. Dighe for petitioner, learned GP Mr. D. R. Kale for respondent Nos.1 to 3-State and learned Advocate Mr. S. G. Kawade for respondent No.4.

3. The petitioner is a registered contractor with the Public Works Department in Class-IV with a registration till 03/12/2022. The respondent No.1 State of Maharashtra has sanctioned the various works under the said scheme which provide the basic facilities in urban and rural areas for the benefit of Scheduled Caste and backward Categories. The State Government has given sanction to about 44 different works in Beed district of which 15 works were sanctioned in the limits of the respondent No.4 Municipal Council, Parli Vaijnath.

4. In view of the sanction of works by the State, funds were made available for the said scheme by the Government Resolution dated 23/06/2022 and accordingly the funds were also released to the respondent No.4 Municipal Council, Parli Vaijnath.

5. In view of these works sanctioned by the State Government, the Collector, Beed issued administrative sanction order on 24/06/2022, which included the aforesaid 15 works to be carried within the limits of Municipal Council, Parli Vaijnath.

6. Respondent No.3 Executive Engineer, Public Works Division, Ambajogai accordingly issued technical sanction dated 29/06/2022 in

favour of the Municipal Council, Parli Vaijnath of the 13 works out of 15 total works to be carried out within the limits of Municipal Council, Parli Vaijnath.

7. The Chief Officer, Municipal Council, Parli Vaijnath accordingly issued e-tender notice on 04/07/2022 calling tenders from the public at large to carry out the various works within the limits of the Municipal Council, Parli Vaijnath.

8. In pursuance of the said e-tender notice, the petitioner filled in the tenders. The financial bids were opened on 21/07/2022 and the petitioner was found lowest one, and accordingly, the work order came to be issued in favour of the petitioner for total 13 works as per the tender notice dated 21/07/2022. The State Government, thereafter, issued Government Resolution dated 21/07/2022 thereby granting Stay to the works sanctioned under the said Bharat Ratna Dr. Babashaeb Ambedkar Samajik Vikas Yojana in the entire State of Maharashtra. The petitioner challenged the impugned GR dated 21/07/2022 in the present writ petition on various grounds.

9. We are not deciding the grounds raised in the writ petition as the same may not be necessary for the reason that the Chief Secretary by

communication dated 18/07/2022 has clarified that the above government decision granting stay to development schemes would not be applicable to development works where tenders are already issued.

10. We have considered the aforesaid communication of the Chief Secretary in another Judgment dated 05/09/2022, **Writ Petition No.7902 of 2022 (Ashwini w/o Dammapal Kirwale and others vs. The State of Maharashtra and others)**, and in the said Judgment we have held at paragraph No.10 as under :-

"10. Having considered the rival submissions and more specifically the communication dated 18.07.2022, the Petitioners case would be covered by the said communication. The 161 works sanctioned in the Parali Taluka, District Beed were already tendered and those were not covered within the Circular dated 04.07.2022 and thus the consequent order passed on 05.07.2022 by the Collector and Member Secretary, District Planning Committee, Beed directing the Chief Executive Officer, Zilla Parishad, Beed and District Administration Officer, Collector Office, Beed not to proceed with any work sanctioned by the Committee, would not be applicable to the 161 works in which tender process has already taken place."

11. We have held in the Judgment of *Ashwini Kirwale (Supra)* that

the communication of the Chief Secretary clarifies the situation that where the tenders are already issued for the development works the Stay granted by the State Government by the aforesaid GR dated 21/07/2022 would not be applicable to the said development works. *Ashwini Kirwale (Supra)* Judgment is squarely applicable to the present case.

12. Thus we hold that by virtue of the communication dated 18/07/2022 of the Chief Secretary, the impugned GR is not applicable to the works granted to the petitioner. We direct the respondent authorities to proceed with the works tendered to the petitioners and for that purpose issue necessary orders.

13. We accordingly direct that all the 13 works to which the tender process has taken place and allotted to the petitioner to proceed further without any hindrance. We have not decided the validity of the impugned GR dated 22/07/2022 as the petitioner is not affected by the said GR.

14. In view of the above, this petition is disposed off.

(ARUN R. PEDNEKER, J.)

(RAVINDRA V. GHUGE, J.)

vjg/-.