

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

**WRIT PETITION NO.7156 OF 2021
ALONG WITH
INTERIM APPLICATION NO.3525 OF 2021**

Mukul Vedprakash Gupta

... Petitioner

Versus

Mahanagar Gas Limited
And Others

... Respondents

Mr. Ashish Verma a/w Mr. Mukesh Gupta for the Petitioner.

Mr. Sharan Jagtiani, Senior Counsel a/w Ms. Sweta Sangtani a/w Mr. Mahesh Londhe, Mr. Trinath Tadakmalla and Mr. Netaji Gawade i/b Mr. Sanjay Udeshi & Co. for Respondent No.1.

Mr. V.S. Gokhale, 'B' Panel Counsel for the State-Respondent No.7.

**CORAM : R. D. DHANUKA &
S. M. MODAK, JJ.**

**DATE : 12 JANUARY 2022.
(Through Video Conference)**

PC. :-

. By this petition filed under Article 226 of the Constitution of India, the Petitioner seeks order and directions against Respondent No.1, who issued Letter of Intent (LoI) in favour of Respondent No.2 and stay the effect, operation and consequences of LoI dated 23 October 2020.

2 Respondent No.1 has raised the issue of maintainability of this writ petition on the ground that Respondent No.1 is neither a Government Undertaking nor is any Authority under Article 12 of the Constitution of India. Respondent No.1 has filed a detailed affidavit-in-reply opposing the petition

on various grounds.

3 The Petitioner has submitted an application pursuant to an advertisement issued by Respondent No.1 for setting up a new CNG station in the Titwala region on 15 November 2019. The Petitioner thereafter submitted second application on 1 March 2020. Respondent No.2 also submitted an application pursuant to the said advertisement. Respondent No.1 rejected the application filed by the Petitioner on 26 October 2020 and issued LoI in favour of Respondent No.2. On 23 November 2020, Respondent No.1 called upon the Petitioner to collect the deposit of Rs.5,00,000/- made by the petitioner. Since the Petitioner did not collect the same amount, the said amount was forwarded by demand draft by Respondent No1 in favour of the Petitioner. It is the case of the Petitioner that the said demand draft was not deposited by the Petitioner.

4 Learned Counsel for the Petitioner invited our attention to some of the letters addressed to Respondent No.1 by the Petitioner regarding LoI and would submit that Respondent No.1 has wrongly rejected the application of the Petitioner. No reasons are assigned to it. Respondent No.1 was unable to point out any deficiency in the application filed by the Petitioner and also was unable to point out as to why the application of Respondent no.2 was allowed and why the application of the Petitioner was rejected.

5 Learned Counsel for the Petitioner invited our attention to the document at Exhibit 'B' (page 115 of the petition), i.e. the Minutes of management Group Meeting. He submits that the application of the petitioner is rejected according to said minutes, on the ground that the

Petitioner Mukul Gupta was in service and was not willing to offer more frontage and he was also not having knowledge of various statutory approvals required. As against this, Respondent No.2's family has HPC RO in the same TA. They were willing to offer 45 meters frontage. They were confident of getting all approvals and thus, the application of Respondent no.2 was recommended.

6 Learned Counsel for the Petitioner submits that the reasons recorded in the said document are factually incorrect. The Petitioner also had offered 45 meters frontage and was having requisite knowledge of various statutory approvals required.

7 A perusal of the Affidavit-in-Reply of Respondent No.1 shows that the order was issued in favour of Respondent No.2 after rejection of application made by the Petitioner on 26 October 2020. The Petitioner has filed the present writ petition on 22 January 2021 and was numbered on 25 October 2021. In the meanwhile, Respondent No.2 has carried out substantial part of the construction. The Affidavit-in-Reply of Respondent No.1 also indicated that said project for operating CNG station would be commissioned shortly. Respondent No.1 has disclosed in the affidavit in reply about the steps taken by Respondent No.1 and also by Respondent No.2 pursuant to the said LoI issued by Respondent No.1 in favour of Respondent No.2 after rejecting the application filed by the Petitioner.

8 Learned Counsel for the Petitioner did not dispute that Respondent No.1 had forwarded the demand draft of Rs.5,00,000/- to the Petitioner towards the refund of the amount deposited by the Petitioner. There is gross delay on

the part of the Petitioner in filing this petition and thereafter for applying for circulation of the writ petition. Even during the COVID-19 pandemic, this Court was functioning and was hearing the matters.

9 A perusal of the petition would clearly indicate that no malafides on the part of by Respondent No.1 in rejecting the application filed by the Petitioner and awarding LoI in favour of Respondent No.2 is alleged. Respondent No.2 has already taken substantial steps pursuant to the said LoI granted in the month of October 2020. We are thus not inclined to interfere with the LoI awarded by Respondent No.1 in favour of Respondent No.2.

10 Since this Court has dismissed the Petition on the merits of the petition, we have not gone into the issue of the maintainability of the Petitioner. The said issue can be decided by this Court in appropriate matter. The Petition is devoid of merit. We, therefore, pass the following Order :-

: O r d e r :

- (a) Writ Petition is dismissed. No order as to costs.
- (b) In view of the dismissal of the petition, the Interim Application filed therein does not survive and the same is accordingly disposed of.

RAJESH
VASANT
CHITTEWAN

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RAJESH VASANT
CHITTEWAN
Date: 2022.01.15
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[S. M. MODAK, J.]

[R. D. DHANUKA, J.]