

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3010 OF 2022

M/s.Esskay Sugicals	...	...Petitioner
v/s.		
Navi Mumbai Municipal Corporation & Ors.		...Respondents

...

Adv.Kailas Dewal i/b Adv.Jayesh Joshi for the Petitioner.
Adv.Sandeep Marne for Respondent No.1-Corporation.
Adv.Ashwini A.Purav, AGP for State.

...
**CORAM : A.A. SAYED &
ABHAY AHUJA, JJ.**

DATED : 21 MARCH 2022

P.C.:

The Petition is filed seeking the following relief:

“(a) That this Hon’ble Court be pleased to issue a Writ of Certiorari or Writ in the nature of certiorari or any Writ, order or Direction under Article/226, 227 of the Constitution of India, thereby quashing and setting aside the impugned Order dated 16th October 2020 passed by Respondent-Corporation thereby blacklisting the Petitioner for a period of three years and also thereby restraining the Petitioner from participating in any bidding process with respect to tenders issued by Respondent No.1-Corporation.”

2. Pursuant to a bidding process and contract, the Petitioner had agreed to supply general surgical material to the Respondent-Corporation. During the Covid-19 pandemic some `gloves’ supplied by the Petitioner was found to be defective. Pursuant to a show cause notice, the Petitioner has been blacklisted for 3 years.

3. The Petitioner had procured the said gloves from the manufacturer, one M/s.Lenora Glove Private Limited, who has categorically stated in their letter dated 13 October 2020 (Exhibit H, page 41 to the Petition) that- "Please also note that the product being sterile, there was absolutely no chance for the factory people or by our Distributor to check these defects post sterilization. Keeping this in view we request you to not to blame our Distributor M/s.Esskay Surgicals for the supply of these defective gloves."

4. The Petitioner has been given a clean chit by the manufacturer, who has also accepted that the mistake was on their part.

5. We are told that the number of defective gloves supplied have been replaced and thrice the number of gloves have been supplied to the Respondent-Corporation i.e. about 15000 gloves.

6. Having regard to the facts and circumstances of the case, prima facie, the blacklisting of the Petitioner for 3 years may be harsh. We, therefore, permit the Petitioner to make a representation to the Commissioner of Respondent-Corporation within a period of one week from today. If such representation is made, the same shall be decided sympathetically within a period four weeks from the date of receipt of the representation.

5. The Petition to stand disposed of in the above terms.

(ABHAY AHUJA,J.)

(A.A.SAYED, J.)