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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

VASANT
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IDHOL

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Date: 2022.10.19 19:49:17
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WRIT PETITION NO.12219 OF 2022

M/s.Sunshine Ventures through Owner Sunil Behr ...Petitioner
V/s.
The Pune Municipal Corporation & Ors. ...Respondents

WITH
WRIT PETITION NO.12226 OF 2022

Shree Yogesh Constructions,
through Owner Vilas V. Deshmukh ...Petitioner
V/s.
The Pune Municipal Corporation & Ors. ...Respondents

WITH
WRIT PETITION NO.12227 OF 2022

M/s.Shreyas Construction,
through Owner Kiran Khedekar ...Petitioner
V/s.
The Pune Municipal Corporation & Ors. ...Respondents

WITH
WRIT PETITION NO.12228 OF 2022

M/s.U.R. Facility Service,
through Owner Uday Rane ...Petitioner
V/s.
The Pune Municipal Corporation & Ors. ...Respondents

WITH
WRIT PETITION NO.12229 OF 2022

Ganesh Enterprises,
through Owner Geeta S. Salunkhe ...Petitioner
V/s.

The Pune Municipal Corporation & Ors. ...Respondents

WITH
WRIT PETITION NO.12230 OF 2022

M/s.Paveway Construction,
through Owner Rajesh Khetrapal ...Petitioner
V/s.

The Pune Municipal Corporation & Ors. ...Respondents

WITH
WRIT PETITION NO.12231 OF 2022

OD Mutha, through Owner Vinod Mutha ...Petitioner
V/s.

The Pune Municipal Corporation & Ors. ...Respondents

WITH
WRIT PETITION NO.12232 OF 2022

M/s.Adarsh Bharat Enviro Pvt. Ltd.,
through Owner Milind Pawar ...Petitioner
V/s.

The Pune Municipal Corporation & Ors. ...Respondents

WITH
WRIT PETITION NO.12233 OF 2022

M/s.Dhanraj Asphalt,
through Owner Raju G. Vitkar ...Petitioner
V/s.

The Pune Municipal Corporation & Ors. ...Respondents

WITH
WRIT PETITION NO.12234 OF 2022

M/s.Deepak Constructions,
through Owner Pratap Niwate ...Petitioner
V/s.

The Pune Municipal Corporation & Ors. ...Respondents

Mr.Ajinkya M. Uadane for the Petitioners in all the above Writ
Petitions.

Mr.Abhijit P. Kulkarni with Mr.Aditya Mahadik for PMC - Respondent Nos.1 to 5 in all the above Writ Petitions.

CORAM : R.D. DHANUKA &
KAMAL KHATA, JJ.
DATE : 18TH OCTOBER, 2022.

P.C. :-

1. Rule. Mr.Kulkarni, learned counsel for the Municipal Corporation – respondent nos.1 to 5 waives service. Rule is made returnable forthwith.
2. By consent of parties all these petitions are heard together and are being disposed of by this common order. The facts in all these petitions are identical.
3. We shall deal with the facts in Writ Petition No. 12232 of 2022 being lead matter.
4. By this petition filed under Article 226 of the Constitution of India, the petitioners seek a writ of certiorari for quashing and setting aside the order dated 3rd October, 2022 thereby blacklisting the petitioner for a period of six months.
5. It is the grievance of the petitioners that neither any show cause notice was issued nor any personal hearing was granted to the petitioners before passing the impugned order on blacklisting. These matters were on board on 12th October, 2022 when the learned counsel for the Municipal Corporation sought time to take instructions

and make a statement before this Court. Mr.Kulkarni, learned counsel for the Municipal Corporation on instructions tenders a copy of the email addressed to the learned counsel for the Municipal Corporation stating that the Municipal Commissioner is of the opinion that hearing can be rendered to the petitioners. A copy of the email is taken on record.

6. In our view, since the order of blacklisting is passed without giving any show cause notice and without rendering any personal hearing to the petitioners, the impugned orders deserve to be quashed and set aside. Be that as it may, the learned Municipal Commissioner has agreed to grant personal hearing to the petitioners.

7. We accordingly pass the following order :-

a). All the writ petitions are allowed in terms of prayer clause (A). It is however, made clear that the order dated 3rd October, 2022 shall be treated as a show cause notice to all the petitioners as to why the petitioners shall not be blacklisted for the reasons recorded in the said order.

b). The petitioners have already filed the reply to the said communication annexed at Exhibit "B" to each of the petitions. It is made clear that the petitioners would be at liberty to file additional reply, if any, within ten days from today, without fail.

c). If the petitioners fail to file additional reply within ten days from today, the Municipal Commissioner to proceed with the hearing and to pass a fresh order without being influenced by the observations made and the conclusion drawn in the impugned order dated 3rd October, 2022. If any additional reply is filed by the petitioners within the time prescribed, the Municipal Commissioner to consider the said additional reply.

d). The petitioners are directed to remain present personally before the concerned officer, who shall grant personal hearing to the petitioners. The name of such officer shall be communicated to the petitioners within one week from today.

e). The petitioners have agreed to remain present before the concerned officer on 31st October, 2022 at 11:00 a.m. for personal hearing. The concerned officer shall pass an order within two weeks from the date of granting personal hearing to the petitioners in accordance with law.

f). The order that would be passed by the concerned officer shall be communicated to the petitioners within one week from the date of passing such order. If the order is adverse against the petitioners, no coercive steps shall be taken by the Municipal Corporation against the petitioners for a period of two weeks from the date of communication of such adverse order.

8. It is made clear that this Court has not expressed any views on the merits of the show cause notice or the contentions raised by the petitioners on merits of the show cause notice. All the contentions of both the parties are kept open.

9. The petitioners are at liberty to rely upon this order before the other Agencies with whom the petitioners have filed the tenders.

10. The above writ petitions are disposed of in aforesaid terms. Rule is made absolute accordingly. There shall be no order as to costs. Parties to act on the authenticated copy of this order.

(KAMAL KHATA, J.)

(R.D. DHANUKA, J.)