

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.

WRIT PETITION No. 1589 OF 2022.

Ritesh Infra Arch Structural
Private Limited.

.... Petitioner.

VERSUS

The State of Maharashtra
and others.

.... Respondents.

Mr.R.M. Pande, Advocate for the Petitioner.
Ms.K.S. Joshi, Incharge G.P. for Respondents.

CORAM : NITIN JAMDAR AND
ANIL L. PANSARE, JJ.

DATE : 23 MARCH 2022.

P.C.

Heard learned Counsel for the parties.

2. The Petitioner has sought to question the tender notice dated 18 February 2022, which is called for by the Respondent State in respect of civil construction work of Conversion of existing Bridge to Storage Weir at Mohgaon Devi, Tahsil Mohadi, District Bhandara. The Petitioner has sought to restrain the Respondent – Authorities

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not to proceed with the tender on the ground that the Petitioner holds patent in Additional Piers and Needles to Convert Existing Bridge in Bridge-cum-Barrage, bearing Patent No.371922 issued on 31 December 2017.

3. The learned Counsel for the Petitioner submitted that as a patentee under Section 48 of the Patents Act 1970, the patentee will have the exclusive right to prevent third parties, who do not have his consent from the act of making, using, offering for sale, selling or importing for those purposes that product and processes in India.

4. The Patent Act itself provides for a methodology for enforcement of patent right which is elaborated in Chapter XVIII of the Act by approaching the court stipulated thereunder. As on today, the tender has not been finalized and granted, and if the Respondent Authorities proceed to allot the work and the successful tenderer proceeds to carry out the work under which the Petitioner holds patent, it is obvious that it will be at the risk of action being initiated by the patentee under the Act of 1970. The tender itself contains this stipulation. However, since that stage has not yet arisen, we do not deem it necessary to interfere in writ jurisdiction, as the Petitioner would have necessary remedies under the Act.

5. Writ Petition is accordingly disposed of.

(ANIL L. PANSARE, J)

(NITIN JAMDAR, J)