

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

WRIT PETITION NO.3059 OF 2022

Prabhat Construction (J.V.) Thr. Its Partner Gaurav Prabhat Gupta, Sahakar Nagar, Bhandara
-vs-

The State of Maharashtra, Thr. Secretary, Dept. of Rural Development and Water Conservation,
Mantralaya, Mumbai and ors.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Shri M. G. Bhangde, Senior Advocate with Shri Shajal S. Sarda,
Advocate for petitioner.
Ms N. P. Mehta, Assistant Government Pleader for respondent No.1.

CORAM : A. S. CHANDURKAR AND URMILA S. JOSHI-PHALKE, JJ.

DATE : June 08, 2022

Civil Application (CAW) No.1207/2022

Considering the formal nature of amendment as prayed for, the application is allowed. Amendment be carried out forthwith.

Civil Application is disposed of.

Writ Petition No.3059/2022

In Public Interest Litigation No.23/2021 this Court was concerned that the grievance made by ex-students of Lal Bahadur Shastri Monore High School, Bhandara and the apprehension that there was likelihood of commercial exploitation over the land of the school. On 19/04/2022 after considering various aspects, this Court found that by virtue of ad-interim order dated 22/09/2021 the work of construction of the school and its renovation was stalled until further orders. After noting that the Zilla Parishad would utilize the amount of Rs.1.5 Crores for renovation of the school, the ad-interim order

came to be vacated. As a consequence of this order the petitioner sought to proceed further with the construction work allotted to it. According to the petitioner, the respondent No.3 on 17/05/2022 made a complaint with the Honourable Chief Minister stating that by undertaking such construction certain illegalities were being committed. In the complaint, reference was made to the ad-interim order passed in Public Interest Litigation No.23/2021 staying the work of construction. Acting on that complaint, the Honourable Chief Minister was pleased to direct the matter to be re-examined and till then granted stay to the work of construction. Being aggrieved, the petitioner has challenged the said order.

2. Inter alia, it is submitted by the learned Senior Advocate for the petitioner that the order passed on 19/04/2022 in Public Interest Litigation No.23/2021 was suppressed in the complaint dated 17/05/2022. Reference in the complaint has been made only to the earlier ad-interim order granting stay. It is submitted that in the light of the specific order dated 19/04/2022 permitting the petitioner to go ahead with the work of construction, it was not open for the respondent No.1 to have intervened in the matter. Attention is also invited to the averments made in paragraph 15 of the writ petition to submit that the petitioners in the Public Interest Litigation were also involved in making of the complaint dated 17/05/2022.

3. On perusal of the order dated 19/04/2022 passed in Public Interest Litigation No.23/2021 it is clear that this Court by issuing certain directions deferred the proceedings and

vacated the ad-interim order dated 22/09/2021 by virtue of which the petitioner was entitled to continue the work of construction. Prima facie, the impugned order appears to have been passed without considering the effect of the order dated 19/04/2022. Moreover, there is no reason assigned in the impugned order as to why the stay has been granted in the matter.

4. Issue notice for final disposal of the writ petition, returnable in four weeks.

Learned Assistant Government Pleader waives notice for respondent No.1.

Since the petitioner has made out a strong prima facie case, there shall be ad-interim relief in terms of clause (iv) as amended.

(Urmila S. Joshi-Phalke, J.)

(A. S. Chandurkar, J.)

Asmita