

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION (WP) No. 1528/2020

RAHUL S/O RAJU GUPTA

..VS..

THE STATE OF MAHARASTRA AND ORS.

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri R.K. Thakkar, Advocate for the petitioner
Miss. Nivedita P Mehta, AGP for respondent nos. 1 and 2
Shri M.I. Datrak, Advocate for respondent nos. 3 and 4
Shri N.R. Bhishikar, Advocate for respondent no. 5

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

DATED : 08/06/2022

Civil Application (CAW) 2067/2021

This application has been moved by the respondent no. 5 for release of equipment alleged to be taken in possession by the Receiver. In the reply filed by the Chief Officer, it is disputed that the aforesaid equipment belongs to the respondent no. 5. Considering the averments made in the application and the reply thereto, it is clear that disputed question arise for adjudication and the same cannot be resolved in writ jurisdiction.

The respondent no. 5 is thus permitted to approach the Chief Officer alongwith Shri Krishnakumar Admane for release of the aforesaid equipment. If such request is made, the Chief Officer shall consider the same expeditiously and preferably within a period of four weeks from the date of making the same in accordance with law. If the respondent no. 5 is not satisfied with the outcome of the aforesaid exercise, he is free to take legal recourse in accordance with law.

The civil application is disposed of.

Writ Petition (WP) No. 1528/2020

The challenge raised in the writ petition is to the Resolution dated 27.01.2020 passed by Municipal Council, Umred in the matter of operating its swimming pool and gymnasium facility by the respondent no. 5. During the pendency of the writ petition the Municipal Council issued Tender Notice dated 17.02.2021 calling upon bidders to submit bids for operating the swimming tank and gymnasium. The writ petition has been amended for raising the challenge to that notice.

In the reply filed by the Municipal Council it has been stated that the notice dated 17.02.2021 came to be subsequently cancelled after which fresh tender notice dated 09.03.2021 was issued. This Court vide order dated 23.02.2021 permitted fresh tender process to be undertaken. According to the Municipal Council, one Shri Amol Raipurkar has given an offer which was highest amongst all the bidders. The writ petitioner had also participated in the said tender process. Considering the fact that the subsequent tender notice dated 09.03.2021 is not under challenge coupled with the fact that the successful bidder has deposited the requisite amount as per the tender notice, nothing survives in the adjudication in the writ petition in the light of the prayers as made. The writ petition is accordingly disposed of.

The Municipal Council is free to act in accordance with tender notice dated 09.03.2021.

As per the order dated 23.02.2021, this Court had directed the Civil Court, Umred to appoint a suitable officer as Court

Receiver. In view of the order passed today, the Court Receiver shall restore possession of the swimming tank, Gymnasium and equipment thereto to the Municipal Council through its Chief Officer for necessary further action.

JUDGE

JUDGE

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