

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 4927 OF 2023

M/s Vision Services Through its
Proprietor Santosh Ukardaji Parve .. Petitioner

Versus

The State of Maharashtra and another .. Respondents

Shri Shaikh Mazhar A. Jahagirdar, Advocate for the Petitioner.

Shri A. R. Kale, A.G.P. for the Respondent No. 1.

Shri A. P. Nahar, Advocate h/f Shri Anand P. Bhandari,
Advocate for the Respondent No. 2.

**CORAM : NITIN W. SAMBRE AND
S. G. CHAPALGAONKAR, JJ.**

DATE : 27TH APRIL, 2023.

FINAL ORDER :

. On 24th March, 2022, the petitioner entered into an agreement with the respondent No. 2/Corporation for providing consultancy services for conducting technical survey of mobile towers, providing assistance in revenue generation from the mobile towers in the Aurangabad city.

2. Vide impugned communication dated January 06, 2023 said agreement came to be terminated. As such this petition.

3. According to the learned counsel for the petitioner Mr. Jahagirdar, the petitioner's agreement is yet to be terminated,

but process is initiated for the purpose of such termination. According to him the tenure of the agreement is for a period of five years, out of which initial six months were for the purpose of carrying out survey, whereas remaining period was for the purpose of recovery of revenue. He would urge, before issuance of impugned communication no notice of hearing was issued to the petitioner. Mr. Jahagirdar, who tried to impress upon the Court from various communications addressed by the petitioner to the respondent No. 2/Corporation about discharge of responsibility of the petitioner as is reflected in the agreement referred to above. As such according to him, the petitioner has already discharged its duties/functions which were assigned to it under the agreement. As such order impugned thereby proposing termination of the agreement is illegal.

4. Learned counsel for the respondent No. 2/Corporation would support the order impugned.

5. We have appreciated aforesaid submissions.

6. The fact remains that the petitioner was awarded contract on 21st March, 2022 pursuant to the tender notice of August 2021 in relation to providing consultancy and enhancement of revenue in the matter of operation of mobile towers in the jurisdiction of Aurangabad Municipal Corporation.

7. The respondent No. 2/Corporation has noticed that the

petitioner is unable to discharge its correspondent responsibilities and as such has issued it a notice dated 16th November, 2022.

8. The petitioner pursuant to the aforesaid notice has failed to appear before the respondent No. 2/Corporation thereby citing reason of it's delay and has sought time of around ten days. The prayer for adjournment is not supported by any documentary evidence viz doctors certificate or otherwise.

9. It appears that vide impugned order the aforesaid agreement in favour of the petitioner came to be terminated by citing specific reasons that the petitioner has failed to discharge the duty under the agreement.

10. The fact remains that the petitioner is questioning termination of agreement on the ground of denial of principles of natural justice. Once the petitioner is claiming its right arising out of contract entered into between the petitioner and the respondent No. 2, we are of the view that the petitioner has every right to claim damages from the respondent No. 2 for the purpose of illegal termination of its contract.

11. Apart from above, the fact remains that the petitioner has received notice and the petitioner has failed to respond to the same and only thereafter impugned order is passed. From above, what can be noticed is that the respondent No. 2 has tried to

comply with the principles of natural justice. Apart from above, whether the petitioner has discharged its obligation under the agreement which has formed basis for issuance of notice or impugned termination order is passed without affording opportunity of hearing are disputed questions of facts, which this Court does not go into. We therefore, do not cause indulgence, however, this will not restrict the petitioner from moving before the Court below for seeking damages and such other ancillary prayers. The petition is **disposed of**.

[S. G. CHAPALGAONKAR, J.]

[NITIN W. SAMBRE , J.]

bsb/April 23