

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO.11100 OF 2022**

Kailas Mandap and Light Decorators,
through its Proprietor,
Panditrao Narayanrao Kharpude, ... **PETITIONER**

VERSUS

1. The State of Maharashtra,
through its Secretary Department
of Urban Development,
Mantralaya, Mumbai-32.
2. The Collector, Ahmednagar,
Collector Office, Ahmednagar.
3. Shri. Saibaba Sansthan Trust Shirdi,
Shirdi, Tq. Rahata, Dist. Ahmednagar,
through its Chief Executive Officer ... **RESPONDENTS**

...

Advocate for Petitioner : Mr. Kakde Yuvraj Vijayrao
AGP for Respondent Nos.1 and 2 : Mr. A.S. Shinde
Advocate for Respondent No.3 : Mr. Sanjay Munde

...

**CORAM : MANGESH S. PATIL &
SHAILESH P. BRAHME, JJ.**

DATE : 29.08.2023

PER COURT :

The petitioner had almost succeed in getting the contract for erection of Pandals pursuant to the tender floated by the respondent No.3 - Trust established under the Maharashtra Public Trust Act, 1950. He backed off at the last moment when the work order was to be issued. The Managing Committee in presence of the petitioner's representative resolved to forfeit the deposit of Rs.24,900/- and further black listed the petitioner for applying for the tender for three years.

2. We have heard both the sides.

3. There is no dispute about the fact that on 15.03.2021 the bids were opened. Since the petitioner was found to be L1 bidder, Managing Committee called him for a meeting on 26.03.2022 with the agenda topic 191 for completing the work of erection of Pandals. It transpires that the petitioner had deputed his representative Mr. Milind Kanade who informed the Committee members inability of the petitioner to perform the work to the full extent because of his illness and expressed willingness to carry out the work which was found to be barely 25% of what was applied for. It was taken as a breach of the terms and conditions and the Committee resolved to forfeit the deposit and further resolved to black list the petitioner for a period of three years.

4. As far as the breach of the terms and conditions of the contract is concerned, admittedly the petitioner had committed the breach and we will not be causing any interference in the decision of the respondent No.3 to forfeit the deposit.

5. However, as can be seen, the meeting was called not because of the Committee having been informed by the petitioner about his inability to work. As can be seen from the resolution 191, it is only after the petitioner's representative informed the Committee members his inability to perform pursuant to the agreement to the extent of 75% that abruptly the decision to black list the petitioner was taken. So far as forfeiture, as we have said the petitioner has no right to now question it.

6. Simultaneously if the Committee was of the view that apart

from the forfeiture of the deposit some other drastic action like the one impugned in the matter was to be taken, the principles of natural justice ought to have been followed. No notice or intimation seems to have been given to the petitioner about any inkling in the mind of the Committee members of black listing him. The decision making process to black list the petitioner is indeed illegal.

7. We, therefore, allow the writ petition partly and direct the respondent No.3 - Trust to hear the petitioner, give him an opportunity of explaining the circumstances and to take a fresh decision as expeditiously as possible and in any case within six weeks.

(SHAILESH P. BRAHME, J.)

(MANGESH S. PATIL, J.)