



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

928 WRIT PETITION NO. 15311 OF 2023

DEEPAKSINGH MANOJSINGH RAJPUT

VERSUS

THE STATE OF MAHARASHTRA THROUGH SECRETARY AND OTHERS

.....
Advocate for Petitioner : Mrs. Ansari Asfia Nuzhat
AGP for the respondent – State : Mr. G.A. Kulkarni
...

**CORAM : MANGESH S. PATIL &
NEERAJ P. DHOTE, JJ.**

DATE : 15 DECEMBER 2023

PC :

The petitioner who has already been fishing on a tank pursuant to an agreement, is now objecting to the tender process which has already culminated in issuance of the contract to the respondent no. 4.

2. The learned advocate for the petitioner seeks leave to amend the petition so as to include the prayer clause (**B-1**) seeking continuation of the fishing contract till 31-03-2024. Leave is granted. Amendment to be carried out forthwith.

3. The learned advocate for the petitioner submits that the petitioner was initially granted contract for fishing rights on the reservoir of the respondent – municipal corporation, in the year 2020-21, which

term was over by 31-03-2022. Subsequently, it was extended and extension came to an end on 30-09-2023. She would submit that considering the fact that it is a fishing contract, the petitioner had sown seeds in the tank by June and now he is supposed to harvest it between September and March which is the peak season. She would submit that the petitioner was under a legitimate expectation that he would have continued at least till 31-03-2024 to reap the benefits of the seeds sown by him, however, instead, the respondent – corporation has floated a tender surreptitiously, in a clandestine manner. There was no wide publication and now the contract has been awarded to respondent no. 4. The petitioner was never put to any notice. He would have participated in the process but for the trick played by the respondent. Petitioner's valuable right of fishing would be lost if the contract with the respondent no. 4 is allowed to go ahead.

4. We expressly asked the learned advocate for the petitioner to demonstrate as to what right the petitioner has to seek continuation of the contract. She would refer to the provisions of Maharashtra Municipal Corporation (Transfer of Immovable Property by Lease and Renewal of Lease) Rules, 2023. Ex facie, those rules are not applicable to the petitioner's contract. These rules govern the leases in respect of the municipal properties. Since the petitioner was merely

permitted to fish in the reservoir of the respondent – corporation, *prima facie*, those rules would not be applicable.

5. In our considered view, already the petitioner has been granted two extensions without following any tender process for the reasons which had prevailed over the decision makers. The fact remains that there cannot be any right as is being claimed by the petitioner in respect of contractual matter without there being any stipulation therefor. Even the copy of the agreement or contract entered into with the petitioner has not been placed on record.

6. As far as the objection to the tender process is concerned, already, even according to the learned advocate for the petitioner, the tender process had started on 03-11-2023 and culminated in issuance of the work order to the respondent no. 4. If that be so, having failed to participate in the tender process, in all probability, expecting continuation of the earlier contract, that the petitioner seems to have run the risk of not participating in the tender process and now as an afterthought, he has resorted to this remedy of approaching the Court.

7. Conspicuously, going by the papers produced with the petition, the petitioner seems to have applied to the respondent no. 2 – corporation by her communication dated 17-07-2023 seeking extension (**Exhibit – A**). Petitioner was fully aware that his licence would expire

by 30-09-2023 and ran the risk of not participating in the tender process but attempted to persuade the respondent no. 2 by submitting an application which apparently was not persisted by him.

8. Be that as it may, in the absence of any clear pleadings regarding right to seek extension and arbitrariness or *mala fides*, the petitioner cannot be allowed to object to the tender process.

9. The petition is dismissed.

[NEERAJ P. DHOTE]
JUDGE

[MANGESH S. PATIL]
JUDGE

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