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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 2512 OF 2023

Jitendra Prabhakar Satnak & Ors. ... Petitioners

vs.

State of Maharashtra and Ors. ... Respondents

WITH

WRIT PETITION NO. 3067 OF 2023

Shashikant Shamrao Khot & Anr. ... Petitioners

vs.

State of Maharashtra and Ors. ... Respondents

WITH

WRIT PETITION NO. 2513 OF 2023

Asahal Aslam Qadiri & Ors. ... Petitioners

vs.

State of Maharashtra and Ors. ... Respondents

WITH

WRIT PETITION NO. 3055 OF 2023

More Rohini Sambhaji ... Petitioner

vs.

State of Maharashtra and Ors. ... Respondents

WITH

WRIT PETITION NO. 3054 OF 2023

Patil Anjanadevi Shivaji ... Petitioner

vs.

State of Maharashtra and Ors. ... Respondents

Mr. S.S. Patwardhan a/w. Ms. Mrinal A. Shelar, Advocate for the Petitioner in above 5 Wps.

Mr V.S. Gokhale, 'B' Panel Counsel for Respondent-State in WP 3054/23, WP 3055/23 and WP/3067/23.

Mr. Ashok Misal, Advocate for Respondent no. 2 - Zilla Parishad, Solapur.,

Mr. R. S. Pawar, AGP for the Respondent-State in WP/2512/23 & WP/2513/23.

CORAM : R. D. DHANUKA &

GAURI GODSE, JJ.

DATED : 10th MARCH 2023

P.C. :-

1. Rule. Learned AGP waives service for the Respondent/State. Mr Ashok Misal waives service for Respondent No.2. Rule is made returnable forthwith. By consent of parties this batch of Petitions were heard together and are being disposed off by a common order.

2. By all these petitions filed under Article 226 of the Constitution of India, the Petitioners have impugned the orders issued by Respondent No.1, thereby suspending all the development activities initiated by its predecessors-officers.

3. It is the case of the Petitioners that the Respondent No.1 had floated various schemes for grant of 'special grants for roads', 'specialised scheme for Nagar Panchayat' and also for 'grants for newly established Nagar Panchayat', etc., in the State of Maharashtra. The Petitioners have contended that for the year 2021-22 administrative sanctions are issued for the works as aforesaid for various Municipal Bodies in the districts

of Raigad, Ratnagiri, Kolhapur and Solapur. Monies are also disbursed. The Petitioners further contended that the Respondent No.1 has issued various Government Resolutions, and the works under the Government Resolutions are within the areas, which are represented by the Petitioners and that the Petitioners have been instrumental in submitting the said works for administrative and financial sanctions of the Respondent No.1, which finally culminated in sanction of the said works under the Government Resolutions.

4. It is the case of the Petitioners that for last several years various popular representatives including the Petitioners from the respective districts of Raigad, Ratnagiri, Kolhapur and Solapur have recommended several works on basic infrastructure development to the Respondent No.1 to be undertaken during the financial year 2021-22. The Petitioners have further stated that the estimate on the works recommended was placed before the Maharashtra Legislative Assembly and are sanctioned under Article 203 and 204 of the Constitution of India. Thus, it is contended that Respondent No.1 granted its administrative approval for the said works by Government Resolutions and towards conclusion of the said process, Respondent Nos. 1 to 3 have issued work orders in many cases which were included in the budget memorandum for the year 2022-23 which would lapse on 31st March 2023.

5. Mr. Parwardhan, learned counsel for the Petitioner relied upon an ad-interim order passed by this Court on 28.11.2022 in Writ Petition No. 9744 of 2022 in the case of *Belewadi*

Village Panchayat v/s. State of Maharashtra and Ors., and order dated 09.11.2022 passed by the Division Bench of Aurangabad Bench in Writ Petition No. 9421 of 2022 in the case of *Pooja Kalyan Sapate v/s. State of Maharashtra* and also judgment of the Supreme Court in *State of Haryana v/s State of Punjab, 2002 AIR(SC) 685*. He also placed reliance on the judgment delivered by Aurangabad Bench on 23.01.2023 in Writ Petition No. 10141 of 2022 in case of *Jayashree Nilesh Pawde and Ors. v/s. The State of Maharashtra and ors.* and submitted that in similar circumstances and after considering the stand taken by the State Government in the Affidavit-in-Reply that in certain cases, the suspension was withdrawn. This Court has quashed and set aside the impugned communication dated 20.07.2022.

6. Mr. Pawar, learned AGP for the State on the other hand contended that, wherever it was found necessary and considering the requirement and necessity of work, in respect of certain works, the order suspending the contracts has been withdrawn. Similar arguments were made before Aurangabad Bench, which are rejected. In our view, the view taken by Aurangabad Bench in case of Jayashree Nilesh Pawde (supra) would apply to this case also.

7. The Authority cannot be allowed to pick and choose the contracts for withdrawal of stay and to maintain stay in respect of the other projects though all the projects are part of the same budget issued by the Government which would lapse on 31.03.2023. We are not inclined to accept the stand taken

by the State Government.

8. We accordingly pass the following order :

(i) Writ Petition No. 2512 of 2023 is allowed in terms of prayer clause (A), which reads as under:

A) That this Hon'ble Court be pleased to issue writ of certiorari or any other appropriate writ, order or direction in the nature of mandamus, thereby quashing and setting aside the order dated 19th of July 2022, issued by the Respondent No. 1 State, Exhibit B hereto and the order dated 25th of July 2022 issued by the Respondent No. 1 State, Exhibit C hereto;

(ii) Writ Petition No. 3067 of 2023 is allowed in terms of prayer clause (A), which reads as under:

A) That this Hon'ble Court be pleased to issue writ of certiorari or any other appropriate writ, order or direction in the nature of mandamus, thereby quashing and setting aside the order dated 21st of July 2022 and 23rd of July 2022, issued by the Respondent No. 1 State, Exhibit B & C hereto;

(iii) Writ Petition No. 2513 of 2023 is allowed in terms of prayer clause (A), which reads as under:

A) That this Hon'ble Court be pleased to issue writ of certiorari or any other appropriate writ, order or direction in the nature of mandamus, thereby quashing and setting aside the order dated 19th of July 2022,

issued by the Respondent No. 1 State, Exhibit B hereto and the order dated 25th of July 2022 issued by the Respondent No. 1 State, Exhibit C hereto;

(iv) Writ Petition No. 3055 of 2023 is allowed in terms of prayer clause (A), which reads as under:

A) That this Hon'ble Court be pleased to issue writ of certiorari or any other appropriate writ, order or direction in the nature of mandamus, thereby quashing and setting aside the order dated 19th of July 2022, issued by the Respondent No. 1 State, Exhibit D hereto, the order dated 25th of July 2022 issued by the Respondent No. 1 State, Exhibit E hereto and the order dated 12th of October 2022, Exhibit F hereto;

(v) Writ Petition No. 3054 of 2023 is allowed in terms of prayer clause (A), which reads as under:

A) That this Hon'ble Court be pleased to issue writ of certiorari or any other appropriate writ, order or direction in the nature of mandamus, thereby quashing and setting aside the orders dated 21st of July 2022 and 23rd of July 2022, issued by the Respondent No. 1 State, Exhibit B & C hereto.

(GAURI GODSE, J.)

(R. D. DHANUKA, J.)