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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 14675 OF 2022**

Aaradhya Infrastructure

.. Petitioner

Vs.

**Sangli Miraj Kupwad Municipal
Corporation & Ors.**

.. Respondents

Ms. Samiksha Karani for petitioner.

Mr. Vikram Walawalkar i/by Mr. Amey C. Sawant for
respondent nos.1 to 3.

Mr. Chetan Patil for respondent no.4.

**CORAM: S. V. GANGAPURWALA, ACTING CJ. &
SANDEEP V. MARNE, J.**

DATE: JANUARY 12, 2023

P.C.:

1. The petitioner had filled in the tender pursuant to the tender notice issued by the respondents/Corporation on 4th May, 2022. The tender was for supply of drivers.

2. The respondents/Corporation required the drivers for operating vehicles for waste management. The petitioner was L-2. The work order is issued in favour of respondent no.4.

3. The learned counsel for the petitioner submits that though the petitioner was L-2, on 1st July, 2022 a resolution was passed by the respondents/Corporation to award the work to the petitioner. The learned counsel submits that the respondents/Corporation could not have cancelled the said resolution by passing a subsequent resolution on 4th August, 2022. The respondents/Corporation do not have the authority to pass a subsequent resolution. The learned counsel submits

that the copy of the resolution dated 1st July, 2022 is not handed over to the petitioner. It is improper to cancel the earlier resolution. The learned counsel relies upon the judgment of the Division Bench of this Court in the case of **AG Enviro Infraprojects Pvt. Ltd., Thane vs. State of Maharashtra & Ors.**, reported in 2019 (4) Mh.L.J. 667.

4. The learned counsel further submits that as the resolution was passed, the petitioner had taken further steps of recruiting the drivers. The said aspect needs to be considered. The further submission is made that in case of other tenderers also the resolution was passed which was cancelled. Aggrieved person has filed writ petition bearing No. 11474 of 2022 (**R. K. Services, through Proprietor Ravindra Ganpati Kempwade vs. Sangli Miraj and Kupwad City Corporation & Ors.**) and this Court under order dated 26th September, 2022 has issued notice.

5. We have heard the learned counsel for the respondents.

6. The learned counsel for the Corporation submits that the petitioner was L-2. In view of that, resolution dated 4th August, 2022 was passed awarding work contract to L-1, who was also qualified. It had issued a legal notice. The work order is allotted to L-1 (Respondent No.4) on 22nd November, 2022.

7. We have considered the submissions.

8. It appears from the submissions and the pleadings that the petitioner was L-2. Normally, a contract would be awarded to L-1. The work order is allotted to L-1 (Respondent No.4).

9. Admittedly, no work order is issued in favour of the petitioner, nor any agreement is entered into with the

petitioner. Normally, the work order has to be awarded to L-1. The same has been done in the present case.

10. In the case of **AG Enviro Infraprojects Pvt. Ltd., Thane** (Supra) relied by the learned counsel for the petitioner the facts were completely different. In the said case, the parties had arrived at a concluded contract. The petitioner therein had complied with all the terms and conditions and had submitted the performance bank guarantee. The agreement was a concluded agreement between the parties and thereafter the respondents therein sought to resile. In that context, the Court held that the same is not permissible.

11. In case of **R. K. Services** (Supra), this Court considered that the tender was for a period of one year, but erroneously the work order was being issued for a period of three or nine years. The Court has, therefore, restrained the Corporation from issuing the contract for a period of more than one year. However, this Court in the said case observed that the Corporation is at liberty to issue work order at the first instance for a period of one year only.

12. In the present case, the tender is for a period of nine years.

13. As no concluded contract came into existence between the petitioner and the respondents/Corporation and admittedly the work order is issued in favour of L-1, the petitioner is L-2, we do not find any error in the action of the respondents/Corporation.

14. The writ petition is disposed of. No costs.

(SANDEEP V. MARNE, J.) (ACTING CHIEF JUSTICE)