

Shephali

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 6492 OF 2022**

Poona Urban Properties Pvt Ltd ...Petitioner
Versus
District Disaster Management Authority through ...Respondents
its Chairman, District Collector & Ors

**WITH
WRIT PETITION NO. 6493 OF 2022**

Indira Real Estate Pvt Ltd ...Petitioner
Versus
District Disaster Management Authority through ...Respondents
its Chairman, District Collector & Ors

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Mr Aashit Kankariya, with Sanket Boara & Vidhi Punmiya, i/b
SPCM Legal, for the Petitioner in both Writ Petitions.
Mr SS Bhende, AGP, for the Respondent-State in both Writ Petitions.
Mr Vishwanath Patil, for PMC in WP/6493/2022.

**CORAM G.S. Patel &
 S.G. Dige, JJ.
DATED: 2nd January 2023**

PC:-

1. The Writ Petition has fundamentally two challenges. The first is to two communications of 10th April 2020 (page 25) and 19th

June 2020 (page 26-I). These are communications by which the Petitioners' commercial hotels in Pune were requisitioned during the Covid-19 Pandemic. There is no dispute that the premises were used by medical and health care staff. The challenge to the requisition order is not pressed, and rightly so.

2. The other dispute is about the compensation to be paid to the Petitioner for the use of these hotel premises. Exhibits "F1" to "F5" to the Petition are invoices or bills raised by the Petitioner on the Incident Commander and Sub-Divisional Officer for the use of various rooms during diverse periods.

3. There are Affidavits in Reply and Rejoinder. The Affidavit in Reply seems to us to take a slightly different approach. Rather than the flat per room occupancy rate quoted by the Petitioners in Exhibits "F1" to "F5" to the Petition, there is now a breakdown of various components such as property tax, water bill, electricity, telephone, salaries, laundry, regular maintenance etc. We note that there is also the inclusion in a rate quoted by the management of the Petitioner of legal expenses of Rs. 1 lakh.

4. The Affidavit in Reply tabulates the rates quoted by the Petitioner and the rates accepted by the government's committee constituted under the Disaster Management Act 2005. There are some heads under which the committee accepted fully the rate quoted by the Petitioner (for example the water bill and the laundry bill). Claims under other heads were partly accepted. Some were rejected. The total that is apparently payable by the State

government to the Petitioners is an amount of Rs. 26,88,000/- for one of the two premises in Writ Petition No. 6492 of 2022 and Rs. 1,47,882/- for the second set of premises in Writ Petition No. 6493 of 2022.

5. The rates quoted by the Petitioners and the rates accepted by the committee (specifically the Corona Virus Control Cell) are set out in the communication of 19th June 2020. The direction to the State Government, therefore, is for payment at the rate as accepted by the committee. In this context, we note that the Petitioners had submitted bills quoting Rs. 990/- per day for the regular single room, Rs. 1,288/- for a regular double room, Rs. 1,344/- per day for the executive single room and Rs. 1,456/- per day for the executive double room. The response from the State Government was to say that five star hotels had been similarly requisitioned and those rates have been fixed at Rs. 2,000/-, i.e., for five star hotels. The rate accepted by the state government for the Petitioners' hotels was Rs. 500/-. The computation is therefore on this basis.

6. The Petitioner now claims a differential, i.e., a higher compensation computed as cost price and this is sought to be positioned as a claim under Article 31-A of the Constitution of India and, in particular its first proviso.

7. There might have been some substance to this had there been no compensation offered at all. We do not see how it is possible in a Writ Petition to examine the correctness or otherwise of the various heads of claim and to deal with the evidentiary aspect that is

undoubtedly necessary such as proof of costs, if indeed the claim is on a cost basis.

8. Having said that, we are abundantly clear that the amount that is accepted as payable by the State Government cannot be indefinitely withheld and must be disbursed to the Petitioners within the reasonable time. For the rest of the claim (the differential between the Petitioners' claim and what is actually accepted as payable), we leave it open to the Petitioner on a without prejudice basis to adopt appropriate remedies in the Court of competent jurisdiction. The two amounts referred to above, i.e, Rs. 26,88,000/- and Rs. 1,47,882/-are undisputed. These must be paid to the Petitioner by 20th January 2022. While we are disposing of the Petition today, we list the matter for compliance on 23rd January 2023. We are making it clear to the State Government that we are not going to extend time for making this disbursement under any circumstances.

9. List on 23rd January 2023, high on board, for directions.

(S.G. Dige, J)

(G. S. Patel, J)