

BASAVRAJ
GURAPPA
PATIL

Digitally
signed by
BASAVRAJ
GURAPPA
PATIL
Date:
2023.03.10
20:30:06
+0530

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

**INTERIM APPLICATION NO.16645 OF 2022
IN
PUBLIC INTEREST LITIGATION NO. 63 OF 2012**

F.A. Enterprises & Ors. Petitioners
Vs.
Mayank Ramesh Gandhi & Ors. Respondents

WITH

**CIVIL APPLICATION NO.13 OF 2018
IN
PUBLIC INTEREST LITIGATION NO. 63 OF 2012**

WITH

**INTERIM APPLICATION NO. 16645 OF 2022
IN
PUBLIC INTEREST LITIGATION NO.63 OF 2012
WITH
CIVIL APPLICATION NO. 980 OF 2016
IN
WRIT PETITION NO.404 OF 2013**

Mr. Nissar F. Khatri, Partner, F.a. EnterprisesAPPLICANT
V/S
F.A. EnterprisesRESPONDENT

WITH

**CIVIL APPLICATION (ST) NO. 2887 OF 2018
IN
WRIT PETITION NO. 404 OF 2013**

Ajay MathankarAPPLICANT
V/S
F. A. Enterprises And OrsRESPONDENTS

WITH

**CIVIL APPLICATION NO. 2972 OF 2013
IN
WRIT PETITION NO. 404 OF 2013**

F.A. Enterprises And OthersAPPLICANTS
Vs.
Mr D.D. Bhide,Executive DirectorRESPONDENT

**WITH
PUBLIC INTEREST LITIGATION NO. 63 OF 2012**

Mayank Ramesh Gandhi And OrsPETITIONERS

V/S

F.A.Enterprises And Ors.RESPONDENTS

**WITH
WRIT PETITION NO. 404 OF 2013**

F. A. Enterprises And OrsPETITIONERS

V/S

Konkan Irrigation Development Corporation,RESPONDENTS
Water Resources Dept And Ors

**WITH
CIVIL APPLICATION NO. 2880 OF 2016
WITH
CIVIL APPLICATION (ST) NO.7381 OF 2019
IN
WRIT PETITION NO.404 OF 2013**

F.A. EnterprisesAPPLICANT

V/S

Konkan Irrigation Development Corporation,RESPONDENTS
Water Resources Dept And Ors

**WITH
WRIT PETITION NO. 11974 OF 2013**

Kondane Dharan Parisar Vikas Manch And Ors....PETITIONERS
V/S
State Of Maharashtra And Ors.RESPONDENTS

WITH
CIVIL APPLICATION NO.2392 OF 2014
IN
WRIT PETITION NO.11974 OF 2013

Anjali Damania & Ors.

..... Applicants

Vs.

Kondane Dharan Parisar Vikas Manch & Ors. Respondents

Mr. Mihir Desai, Senior Advocate with Ms. Sanskruti Yagnik for the
Petitioner in PIL 63/2022

Mr. Surel Shah I/b. Mr. Prasanna P. Patil for the Applicant in Interim
Application No.16645/2022

Mr. Rajiv Chavan, Senior Advocate a/w. Mr. P. P. Kakade, GP a/w. Mr.
M. M. Pabale, AGP and Ms. Priyanka Chavan, AGP for the State

Mr. Dinesh Khaire for Respondent Nos.6 and 7 in Interim
Application No.16645 of 2022 and in PIL 63/2022

Mr. G. S. Hegde, Senior Advocate I/b. Ms. P. M. Bhansali for CIDCO in
PIL

Ms. Shilpa Kapil with Mr. Chidanand Kapil for Respondent No.2 in
PIL

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

DATED : MARCH 9, 2023

P.C.

1. The present PIL is filed against the contract being issued to
Respondent No.1 concerning Kondhane Irrigation Dam Project on
the Ulhas River in Raigad District of Maharashtra. The contention of

the Petitioner was that the tender was accepted with four fold increase in the cost. The challenge was on various grounds such as cartelisation, no permission concerning environmental regulations, corruption, clearance for development on forest land, projects being kept on shelf and so on.

2. The Public Interest Litigation was filed in the first week of April 2012. It appears that immediately upon filing of the PIL, the contract with Respondent No.1 was cancelled by the Konkan Irrigation Development Corporation (for short the “**KIDC**”). It is not disputed that the Kondhane Irrigation Dam Project has now been handed over to the CIDCO.

3. It appears that, the contract with Respondent No.1 was terminated. Respondent No.1 has filed Writ Petition bearing No.404 of 2013 challenging the cancellation of the contract. There were various orders passed from time to time by this Court. In the Writ Petition filed by the Contractor, the Petitioner also claimed payment of amount.

4. It appears that the KIDC had filed affidavit in the Writ Petition No.404 of 2013 filed by the Contractor stating that the amount would be paid by them. Since the same amount was not paid, a Contempt Petition was filed. In the said Contempt Petition, show cause notice

was issued by this Court. The same was assailed by the KIDC and others before the apex court. The apex court passed the following order:

“Application for intervention / impleadment is allowed.

Leave granted.

Heard learned counsel for the parties.

It is agreed to that it would be appropriate that the matter of payment to the respondent with respect to work done is examined by the High Court while deciding the pending Public Interest Litigation (PIL) which includes inter alia project in question. There are certain orders which have been passed in the PIL, they will have some relevance with respect to the payment to be made, even there was a Government order directing that no payment shall be made. There had been a criminal case also in which certain incumbents were arrested. We do not want to comment on the merits of the case, agreement has expressed that question of payment has to be examined by the High Court afresh. The impugned orders passed by the High Court are set aside including in the contempt petition. The writ petition bearing No.404 of 2013, out of which this appeal arises, shall be heard alongwith pending PIL and decided simultaneously on merits alongwith that; and at the time of final decision of both matters the High Court shall take upon a call with respect to the payment, if any, be made to the respondent – F.A. Enterprises.

We request the High Court that as the PIL is also pending since long, to decide the writ petition, PIL and any connected matter pending with respect to the PIL, together as expeditiously as possible preferably within a period of six

months. We reiterate that we have not expressed any opinion on the merits of the case. Accordingly contempt proceedings shall stand dropped.

With the aforesaid agreed order the appeal stands disposed of.”

5. The Government has issued Government Resolution dated 18th August 2017 handing over the project to the CIDCO and the CIDCO has deposited an amount of Rs.99.15 crores with the State Government. The State Government may ascertain the payment to be made to the contractor in Writ Petition No.404 of 2013.

6. Mr. Desai, the learned Senior Advocate for the Petitioner in PIL submits that subsequently, during pendency of the PIL, criminal cases were registered against the contractor and the concerned officials. All the accused therein i.e. the Contractor and the other Officials have been discharged. The learned Senior Advocate further submits that the Chitale Committee was appointed and a report is submitted. The Committee had reported some irregularities. Same was placed in the Assembly and action taken report about concerned irregularities was undertaken and thereafter the criminal cases were filed against the contractor and the concerned officials. The Court has discharged the Contractor and the concerned Officials. It is submitted that while discharging, the Chitale Committee report

was also considered.

7. In view of the above, nothing remains in the present PIL for adjudication. The PIL, as such, stands disposed of.

8. In other Writ Petitions filed by the Petitioner regarding the contracts awarded by the KIDC, this Court, under order dated 8th June 2021 in Writ Petition No.1755 of 2017 with connected Writ Petitions and Interim Applications, had passed an order disposing of the Applications recording the statement of the State Government and the KIDC that the project can be implemented without further legal hindrance. Mr.Shah, the learned Advocate for the Petitioner in Writ Petition No.404 of 2013, on instructions, submits that, even today also, the Petitioner is ready to execute the project at the same cost.

9. Having regard to the stand of the KIDC and the Government and that today also the Petitioner is ready to do the work at the same cost, we grant liberty to the CIDCO to execute the instant project through the Petitioner or other interested party by following due process. As far as the payment is concerned, the CIDCO has deposited an amount of Rs.99.15 Crores with the State Government. The State Government shall take steps with regard to the payment, as may be permissible and which according to the State Government,

the Petitioner would be entitled to. The said decision shall be taken preferably within three months.

10. The Public Interest Litigation along with all the Writ Petitions and Interim Applications stand disposed of. No costs.

(SANDEEP V. MARNE, J)

(ACTING CHIEF JUSTICE)