

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 430 OF 2023

Ramesh Annaso Todkar

..Petitioner

V/s.

State of Maharashtra, through
the Chief Secretary and Ors.

..Respondents

Mr. S.S. Patwardhan i/b Ms. Mrinal Shelar for the Petitioner.
Mr. R.S. Pawar, AGP for the Respondents/State.

CORAM : R.D.DHANUKA, AND
M.M.SATHAYE, JJ.

DATE : 13th FEBRUARY 2023

P.C.

. Rule. Learned AGP waives service for the Respondent/State. Rule is made returnable forthwith.

2. By this petition filed under Article 226 of the Constitution of India, the Petitioner has impugned the order dated 20.07.2022 issued by Respondent No.1 thereby suspending all the development activities initiated by its predecessors, officers including that of the Petitioner.

3. It is the case of the Petitioner that various contracts are awarded to the Petitioner as mentioned in the Writ Petition after obtaining sanction under Article 203 and 204 of the Constitution of India. The Budget Memorandum was presented under the said legislature under Article 202(1) of the Constitution of India.

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The work order was issued in favour of the Petitioner and in respect of work which was included in the Budget Memorandum for the year 2022-2023, which would lapse on 31.03.2023.

4. The Respondents however issued a communication dated 20.07.2022 suspending these works without any basis.

5. Mr. Parwardhan, learned counsel for the Petitioner relied upon 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considering the stand taken by the State Government in the Affidavit-in-Reply that in certain cases the suspension was withdrawn, this Court has quashed and set aside the impugned communication dated 20.07.2022.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 relied upon the averments made in the Affidavit-in-Reply notarised on 04.02.2023 and in particular paragraphs 4 to 6 in

support of his contention that wherever it was found necessary and considering the requirement and necessity of work, in respect of certain works, the stay order dated 23.07.2022 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 learned AGP could not point out as to why about the work order issued to the Petitioner, the suspension order cannot be withdrawn. 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.

8. We are not inclined to accept the stand taken by the State Government in the Affidavit-in-Reply and the stand is rejected.

9. We, accordingly, pass following order:

Writ Petition is allowed in terms of prayer clauses (a) and (b). Rule is made absolute. No order as to costs.

M.M.SATHAYE, J.

R.D.DHANUKA, J.