IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

Present:
Hon'ble Justice Shampa Sarkar

WPA 17070 of 2022
M/s Ajit Karmakar
Vs.
The State of West Bengal& ors.
With
WPA 18898 of 2022
M/s Ajit Karmakar
Vs.
The State of West Bengal & ors.

For the petitioner : Mr. Bikash Ranjan Bhattacharya, Sr. Adv.
Mr. Santi Pada Pahari.

For the State-respondent in WPA 17070 of 2022 : Mr. Lalit Mohan Mahata, Ld. AGP,
Mr. Prasanta Behari Mahata.

For the Panchayat authorities : Mr. Atanu Biswas.

For the State-respondent in WPA 18898 of 2022 : Mr. Jaharlal De,
Mr. Samim Ul Bari.

Hearing concluded on : 12.07.2024
Judgment on : 16.08.2024

Shampa Sarkar J.:-

1. These two writ petitions were heard analogously as similar questions were involved between the same parties.

2. Pursuant to an advertisement published by Lodna Gram Panchayat in the Bartaman and Business Standard Newspaper on June 30, 2021, inviting applications from the public to participate in a tendering process for collection of tolls from vehicles plying between Metedanga and Lodna More Road, the petitioner entered his bid. The bid price was fixed at

Rs.14,60,000/-. The conditions mentioned in the tender notice were as follows:-

i) The tender was for three years.

ii) The participants had to submit their bids in sealed covers.

iii) Earnest money of Rs.20,000/- has to be deposited.

iv) The price of the Tender form was Rs.1500/-, non-refundable.

v) The last date for submission of the tender through sealed cover was July 16, 2021 upto 1.00 p.m.

vi) The date of opening of the tender was July 16, 2021, at 2 pm.

3. The petitioner, as the highest bidder was selected. Such selection was for a period of three years. On July 19, 2021, the Pradhan of the Gram Panchayat intimated the petitioner that his bid amounting to Rs.15,50,000/- had been accepted. The petitioner was requested to execute a formal contract with the Pradhan of the Lodna Gram Panchayat on a non-judicial stamp paper of Rs.10/- within 15 days from the date of receipt of the letter of acceptance, failing which, the tender would automatically stand rejected and the earnest money would be forfeited. Pursuant to the above letter, an agreement was entered into between the Pradhan of the Lodna Gram Panchayat and the petitioner for a period of three years, with effect from July 19, 2021 to July 18, 2024.

4. The total bid amount was divided into three instalments. The first instalment amounting to Rs.5,02,000/- was scheduled to be paid on July 19, 2021. The second instalment amounting to Rs.5,01,500/- was scheduled to be paid on July 18, 2022 and the last instalment amounting to Rs.5,01,500/- was scheduled to be paid on July 18, 2023.

5. The petitioner paid the first instalment and started the work. The collection of the toll tax was going on smoothly, without any disturbance. No objections were raised. While the petitioner was executing the work of collection of toll tax, a notice was issued by the Block Development Officer, Khandaghosh Development Block, vide Memo No.2458 dated July 6, 2022 to the Pradhan of the Lodna Gram Panchayat, directing the Pradhan to forthwith cancel the agreement between the gram panchayat and the petitioner from July 18, 2023.

6. The reason assigned by the Block Development Officer was that Rule 13.2 of the Gram Panchayat (Audit, Account and Budget) Rules 2007 (hereinafter referred to as the said Rules), prescribed that the gram panchayat could not execute a lease agreement for a period extending beyond the term of the office of the existing members of the panchayat. As the term of the office of the existing members including the Pradhan of the said Gram Panchayat was due to expire on September 22, 2023, the gram panchayat could not enter into any contract beyond September 22, 2023.

7. On July 11, 2022, the Pradhan replied to the letter of the Block Development Officer intimating the authority that a meeting was held on July 11, 2022 and the members of the panchayat discussed the issue and resolved unanimously that the matter may be considered once again by the Block Development Officer, with sympathy. The Block Development Officer did not intimate anything either to the gram panchayat or to the petitioner.

8. Thus, the notice of the Block Development Officer gave rise to filing of WPA No. 17070 of 2022. The petitioner prayed for a writ of mandamus directing the respondents to withdraw the letter dated July 6, 2023 issued

by the Block Development Officer Khandaghosh Development Block and to pass an interim order by restraining the respondents from giving further effect to the said letter. The petitioner contended that Rule 13(2) of the said Rules would not be applicable in the instant case as the agreement entered into between the petitioner and the Pradhan for collection of toll tax, was not an agreement for lease of immovable property.

9. According to Mr. Bhattacharya, learned Senior Advocate for the petitioner, sub-rule 2 of Rule 13 of the said Rules prohibited the gram panchayat from executing any lease agreement with regard to immovable property for a period beyond the term of the office of the existing members of the gram panchayat. The said Rules did not apply in case of an agreement for collection of toll tax.

10. It was contended by Mr. Bhattacharya that the said Rules were incorrectly invoked by the Block Development Officer and the Block Development Officer did not have any authority to direct the Gram Panchayat to cancel the agreement. The Artho O Parikalpana Upasamity of the gram panchayat had taken the decision to auction of the property and had selected the petitioner as the successful bidder.

11. The Artho O Parikalpana Upasamity of the gram panchayat decided that the petitioner should be awarded the contract. Accordingly, the Pradhan of the gram panchayat, on the basis of the resolution of the Artho O Parikalpana Upasamity of the Gram Panchayat, had entered into an agreement with the petitioner for collection of toll tax for a period of 3 years. Mr. Bhattacharya further contended that when the Pradhan entered into the agreement, the members of the gram panchayat were validly holding their

respective offices. Their term was to expire on September 22, 2023. Once the contract had been concluded between the parties, the same could not be cancelled.

12. During the pendency of WPA No. 17070 of 2022, the agreement between the petitioner and the gram panchayat was cancelled by the gram panchayat. The Pradhan communicated the decision by a letter dated August 1, 2022. The petitioner was asked to meet the gram panchayat for refund of the money which was deposited towards the second instalment. Such decision of the Gram Panchayat gave rise to WPA No. 18898 of 2022.

13. Mr. Bhattacharya, submitted that the contract was a concluded one. The first instalment had been deposited and the petitioner executed the work in terms of the contract for the first year, free from all hindrances and without any objection. The second instalment was also deposited by the petitioner. Thus, the petitioner should have been allowed to continue for the second term. The term of office of the gram panchayat continued up to September 2022. The second term on and from July 18, 2022 upto July 18, 2023 would have been well within the tenure of the Gram Panchayat. The cancellation of the tender for the second term was illegal, arbitrary and without any reasons. The gram panchayat was bound by the terms of the agreement and both parties had acted in furtherance of such agreement.

14. Reliance was placed on Section 105 of the Transfer of Property Act to contend that the expression lease of an immovable property meant the transfer of a right to enjoy such property, made for a certain period of time or in perpetuity, in consideration of a price paid or promised, or of money, or share of property, or service, or any other thing of value. In the instant case,

the agreement permitted the petitioner to collect toll tax from the vehicles which were plying from 'Metedanga Colony to Lodna More' under the Lodna Gram Panchayat, without there being any transfer of a right to enjoy immovable property.

15. The cancellation of the entire agreement was mala fide, arbitrary, unreasonable and violative of the principles of natural justice. Neither was the petitioner heard nor was the petitioner assigned any reason as to why the gram panchayat had decided to cancel the agreement and had asked the petitioner to take back the money deposited towards the second instalment. The Block Development Officer had directed the Panchayat authorities to only cancel the third term, from July 18, 2023 to July 18, 2024.

16. Mr. Bhattacharya relied on the decision of ***Subodh Kumar Singh Rathour vs. The Chief Executive Officer & Ors.,*** reported in ***2024 INSC 486*** and submitted that cancellation of a contract deprived a person of his valuable right and was a drastic step. The contractor made significant investments during the subsistence of the contract. The court must protect the interest of such contractor against the arbitrary cancellation of the contract.

17. Cancellation of the contract in the instant case created uncertainty in business dealings with the authority. The rationality or the reason behind such a decision was not available from the conduct of the Panchayat. A public authority made a promise to the petitioner, upon execution of such contract. The promise/assurance was that the petitioner would be entitled to collect toll tax upon deposit of the fees. The petitioner deposited the fee for the first year and there was no objection from any end. The petitioner

deposited the fee for the second year and it was accepted by the gram panchayat. When the panchayat authorities were informed by the Block Development Officer that the agreement could not have gone beyond July 2023 because the tenure of the panchayat would expire on September 22, 2023 and the agreement for the third year should be cancelled, the panchayat authorities became active and decided to cancel the entire agreement, even for the period when the tenure of the gram panchayat had not expired. This itself was an arbitrary and mala fide action which was liable to be set aside. It was prayed that the petitioner should at least be allowed to continue with the second term as the fees had already been deposited.

18. Mr. Atanu Biswas, learned Advocate for the panchayat authorities submits that as per the resolution of the Artho O Parikalpana Upasamity of the Lodna Gram Panchayat, the Pradhan issued a letter to the petitioner dated July 19, 2021, communicating the acceptance of the petitioner's financial bid. The petitioner was requested to execute a formal contract with the gram panchayat within 7 days from the receipt of the letter. The agreement was executed and the petitioner started to collect the toll tax from the vehicles plying from Metedanga Colony to Lodna More. Thereafter, the Pradhan was asked by the Block Development Officer that the agreement for three years could not have been entered into as the term of office of the existing members of the gram panchayat would expire on September 22, 2023. The Block Development Officer directed cancellation of the agreement from the period between July 18, 2023 and July 18, 2024. Compliance report was to be furnished before the Block Development Officer, within 2

days from the receipt of the letter. The petitioner was informed about the contents of the said letter and was asked to meet the Pradhan in the office of the gram panchayat on July 11, 2022 at 3.00 p.m. The petitioner appeared before the gram panchayat and discussed the matter. The petitioner requested the Pradhan to reconsider the matter on sympathetic grounds.

19. On July 11, 2022, the Artho O Parikalpana Upasamity of the Lodna Gram Panchayat held a special meeting and decided to approach the Block Development Officer for a sympathetic reconsideration. A resolution was accordingly communicated to the Block Development Officer. Although, the Block Development Officer received the recommendation, he once again verbally asked the Pradhan to cancel the tender. By such time, the accounts were audited and a report was submitted. The Block Development Officer communicated the internal audit query and the report to the Pradhan, by a letter dated July 15, 2022.

20. The letter indicated that the audit team also found the agreement to be invalid as the same was in violation of Rule 13(2) of the said Rules. The term of office of the gram panchayat was to expire on September 22, 2023 and the agreement for a period beyond the term was not in accordance with law. The auditor advised that the gram panchayat should again go for an e-auction.

21. According to Mr. Biswas, all such facts had been clearly stated in the affidavit-in-opposition filed in connection with W.P.A. 17070 of 2022. Thus, the contention of the petitioner that he was taken aback by the decision of the gram panchayat to cancel the tender, was totally was incorrect. The petitioner appeared before the gram panchayat and prayed for

reconsideration. The fact that there was a contemplation to cancel the tender on the basis of the Block Development Officer's direction and discussions were held in the meeting of the Artho O Parikalpana Upasamity, were known to the petitioner.

22. Mr. Biswas further contended that the Finance Department, Government of West Bengal, by a notification on July 27, 2022, prescribed that all tenders having a value of Rs.1 lakh and above, should be held by an e-tendering mode through a centralized e-tender portal. Such notification was not known to the gram panchayat and the same was not followed by the gram panchayat. The petitioner was selected as the successful bidder in a process which was held in violation of the said notification. Bids in sealed covers were accepted from the proposed tenderers and the notice inviting tender was published in two newspapers.

23. On the advice of the internal audit team, the competent authority of the gram panchayat decided to cancel the agreement entered into between the petitioner and the Pradhan with immediate effect and permitted the petitioner to take back the amount which was paid towards the second instalment. The audit team and the Block Development Officer had pressurized the gram panchayat to cancel the agreement which was not only contrary to Rule 13(2) of the said Rules, but also on the ground that the mandatory requirement to hold e-auction through a centralized e-tender process in respect of tender value of Rs.1 lakh and above had not been followed. The decision was not taken by the Pradhan whimsically. The matter was discussed with the petitioner. The petitioner attended the meeting. The petitioner's prayer for reconsideration was put forward before

the Block Development Officer. The Block Development Officer advised cancellation. The audit team advised e-tender. Thus, the gram panchayat had no other option but to follow such advice and direction.

24. The meeting was held on August 1, 2022, when the members of the gram panchayat unanimously decided that the agreement dated July 19, 2021, would be cancelled with effect from August 2, 2022. Hence, the order which has been impugned in WPA No.18898 of 2022 was issued. The money towards second instalment was deposited by the petitioner sometime in July 2022. On August 1, 2022, itself, the petitioner was asked to take back the money which was lying with the gram panchayat. The petitioner did not do so and instead approached this court by challenging the cancellation order.

25. Mr. Biswas submitted that the agreement was entered into between the petitioner and the gram panchayat in violation of law. First violation was that the Pradhan was not competent to enter into the contract on behalf of the gram panchayat, as the tenure of the Pradhan was to end on September 22, 2023, along with all other members. There was lack of competence. The tender was void ab initio. The second illegality in the contract was that the procedure followed was in violation of the mandatory direction of the Government of West Bengal, Department of Finance, for e-tender in respect of any tender value of Rs.1 lakh or more. In this case, the base price was Rs.14,05,000/- for a period of 3 years. At the very inception, the notice inviting tender was contrary to law and in violation of the government's notification. Section 23 of the Indian Contract Act was also relied upon to substantiate that a contract was unlawful, if it was either forbidden by law

or if such contract was permitted to continue, the same would defeat the provisions of any law.

26. Even if the ignorance of the Finance Department's notification was an explanation given by the Pradhan, yet continuation of the contract would be unlawful in terms of Section 23 of the Indian Contract Act. The procedure for e-tenders, as prescribed by the Finance Department, was a matter of public policy and any agreement opposed to public policy would also be unlawful in terms of Section 23 of the Indian Contract Act.

27. Relying on Section 20 of the Indian Contract Act, it had been urged that an agreement entered into by both parties under a mistake of fact, would make the agreement void.

28. Mr. Biswas urged that the essential components of a valid contract would be competence of the parties to the agreement, free consent of the parties, lawfulness of the consideration with the object of the agreement and the absence of an express declaration under the Indian Contract Act, that such agreement was void.

29. As the contract was a void one, no right was created in favour of the petitioner. No further procedure was required to be followed, least of all, affording an opportunity of hearing to the petitioner. A document which was void ab initio was not required to be further cancelled by any subsequent proceeding. Moreover, the agreement was the consequence of a notice inviting tender which at its very inception was contrary to the mandatory provision of an e-tender. The said illegality could not be cured by any subsequent act. The expression void meant that the document was without

any legal force or consequence or effect. It was invalid, null, worthless and ineffectual. A further hearing would be an exercise in futility.

30. It was contended next that a decision taken by the public authority could not be easily nullified. Reliance was placed on the following decisions:-

(i) ***ITC Ltd. vs. State of UP*** reported in ***AIR2012 SC 1820***.

(ii) (ii) ***Nagendra Rai vs. Howrah Improvement Trust*** reported in ***CHN 2015 (3) 87***.

31. The learned advocate submitted that a Division Bench had upheld the decision of the Howrah Improvement Trust to issue a fresh tender even after the letter of acceptance had been issued to the successful bidder. Howrah Improvement Trust issued a notice inviting tender for sale of a plot of land measuring 4 cottah, 5 chittaks, 9 square feet, being premises No.147, Salkia School Road. One Narendra Rai, offered his bid which was accepted. The agreement was not executed. In the meantime, the price of the property increased exorbitantly and Howrah Improvement Trust called upon Narendra Rai to deposit the balance consideration at the market price. Such decision was challenged. The Division Bench held that the land was public property and Howrah Improvement Trust was the custodian of the property. Thus, claim of the balance consideration at the market value, for enhancement of revenue, was permitted.

32. Similarly, in this case too, the panchayat authorities were empowered to call for a fresh e-tender in order to ensure maximum revenue generation and to rectify the mistake of having entered into a contract contrary to the rules and the procedure prescribed by the finance department. The e-tender process would increase competition and ensure maximization of revenue.

33. Mr. Lalit Mohan Mahata and Mr. Jaharlal De, learned Advocates appeared for the state respondents in the respective writ petitions. Both the learned Advocates emphasized the illegalities in the tendering process, i.e., lack of competence of the tendering authority to enter into a contract for three years and non-compliance with the mandate of the finance department for an e-tender through a centralized e-tender portal in respect of every tender having estimated value of Rs.1 lakh or more.

34. Referring to section 2(g) of the Indian Contract Act, 1872, Mr. De submitted that an agreement would not be enforceable by law if the same was void. In the instant case, the agreement was opposed to public policy, meaning thereby, the panchayat authorities had published a notice inviting tender and entered into a contract without following the e-tender process. E-tender through a centralized e-tender portal would increase fair competition and allow higher bids to come in. Maximization of revenue was the target of every authority in matters relating to procurement and utilization of service in respect of property which had vested with the public authority.

35. In the instant case, as per the provisions of the Constitution and the West Bengal Panchayat Act 1973, certain properties had vested with the gram panchayat. The gram panchayat had the power to improve, develop and earn revenue from such property. The publication of the notice inviting tender was done locally. Four persons had participated out of which the petitioner was the highest bidder. The petitioner's bid price was Rs.15,50,000/-. The base price was Rs.14,50,000/-. Had the publication been made in the centralized e-portal, in that event, bigger players would have participated and the panchayat authority would have secured a higher

bid. The procedure which was followed was contrary to the principle of maximization of revenue and fair competition. Hence, the agreement was void ab initio and the decision of the gram panchayat to cancel the agreement was in consonance with the provisions of law. When a court of law found that a contract was illegal, it was the duty of the court to refuse performance of such contract. The illegality was not only with regard to non-compliance of the mandate of the finance department to go for e-tender, but also on account of violation of the rules. Incompetence of the gram panchayat to enter into the agreement, vitiated the agreement. The gram panchayat did not have the right to enter into a three-year agreement. The consequence of such a void contract was that the gram panchayat should go for a fresh e-tender and the Court could not legalize the contract by passing directions. Mr. De relied on the following judgments:-

(i) ***Pimpri Chinchwad New Township Development Authority vs. Vishnudev Coop. Housing Society*** reported in ***(2018) 8 SCC 215.***

(ii) ***Shanti Sports Club vs. Union of India*** reported in ***(2009) 15 SCC 705.***

36. Having heard the learned Advocates for the respective parties, this Court finds that the members of the gram panchayat and the Pradhan were to hold their office validly up to September 22, 2023. They were competent to enter into a contract between July 18, 2021 and September 22, 2023. In the instant case, the contract had been executed and the petitioner was granted the work of collecting toll tax upto July 18, 2024. The petitioner could have been granted the work up to 18 July 2023 and not beyond. Thus, the Block Development Officer had rightly directed that the agreement

beyond 18 July 2023 should be cancelled on the ground of lack of competence of gram panchayat and the Pradhan to execute an agreement beyond their term of office. The first petition being WPA 17070 of 2022 thus fails.

37. Even assuming, Mr. Bhattacharya's contention that the agreement for collection of toll tax did not amount to lease of immovable property, the law is well settled that unless a party entering into an agreement is authorized or competent to do so, such agreement shall be treated as void ab initio. In the instant case, neither the members of the gram panchayat nor the Pradhan could have entered into any contract beyond September 22, 2023, that is, the date when their term of office ended. They could not have represented the gram panchayat in any official activity thereafter. Thus, none was competent to enter into any agreement on behalf of the gram panchayat as there would be cessation of membership after September 22, 2023. The question which falls for determination is whether the cancellation of the entire agreement by the gram panchayat, should be sustained.

38. The order of cancellation does not record any reason. Thus, the contention of Mr. Biswas, Mr. Mahata and Mr. De that the violation of the notification of the State Government and the said Rules were the grounds for cancellation of the tender are reasons disclosed in their affidavits. In the decision of ***Mohindhr Singh Gill and anr. vs. Chief election Commissioner, New Delhi and ors.*** reported in ***(1978)1 SCC 405***, it was been held as follows:-

> "8. The second equally relevant matter is that when a statutory functionary makes an order based on certain grounds, its validity must be judged by the reasons so mentioned and cannot be

supplemented by fresh reasons in the shape of affidavit or otherwise. Otherwise, an order bad in the beginning may, by the time it comes to court on account of a challenge, get validated by additional grounds later brought out. We may here draw attention to the observations of Bose, J. in Gordhandas Bhanji [Commr. of Police, Bombay v. Gordhandas Bhanji, 1951 SCC 1088.

'Public orders, publicly made, in exercise of a statutory authority cannot be construed in the light of explanations subsequently given by the officer making the order of what he meant, or of what was in his mind, or what he intended to do. Public orders made by public authorities are meant to have public effect and are intended to affect the actings and conduct of those to whom they are addressed and must be construed objectively with reference to the language used in the order itself.'

Orders are not like old wine becoming better as they grow older."

39. The decision in ***Mohindhr Singh Gill (supra)*** is pressed into service in this case for the principle that the letter dated August 1, 2022, communicating the cancellation of the agreement, which has been impugned in WPA 18898 of 2022, should be accepted as it reads (devoid of reasons). Neither the contents of the affidavits nor the legal principles which had been put forward by way of affidavits nor the submissions, can either improve or supplement the order which had been passed.

40. The order is unreasoned. Non-compliance of Rule 13(2) and the finance department's mandate, are not mentioned as the grounds for cancellation. The provisions of the Indian Contract Act cannot be read into the order of cancellation. The justification that the tendering process was opposed to public policy and thus void, is not the ground cited. Although, the instant agreement was not directly a lease of immovable property, the law is well settled that an official who cannot represent a public authority also, cannot enter into a contract on behalf of such authority. When the term of office of the Pradhan and all members was to expire on September

22, 2023, the members of the gram panchayat and the Pradhan could neither have issued a notice inviting tender for a period beyond their term nor entered into an agreement with the petitioner for a period beyond their term in office. The gram panchayat could have issued the notice inviting tender for two years and also executed the agreement with the petitioner for two years from the date of publication of the notice inviting tender.

41. In such view of the matter, the petitioner could have executed the work for two years. The petitioner had already deposited the second instalment on July 11, 2023. In the instant case, it is neither the case of the respondents nor does it appear from the records, that the petitioner has been held responsible either for misleading the authorities in bagging the tender or in any way guilty of any non-compliance. The records do not reveal that the petitioner had a semblance of control over the decision of the authority. Even the gram panchayat admits that the non-compliances were bona fide mistakes.

42. In the instant case, the gram panchayat and the Pradhan lacked the competence to enter into the agreement for the third year.

43. The internal audit report and the queries raised, cannot be used to impute any ill motive against the petitioner. The advice of the internal audit committee only reflects the opinion of the auditor. The same cannot be construed as a decision of either the gram panchayat or the Block Development Officer. The panchayat authorities have tried to justify their decision to cancel the agreement on the basis of the opinion expressed in the audit report. Merely because something was written in the internal files and the note sheet, the same could not be treated as an order. The same

could only become an order if the opinion was formally transformed into a decision and informed officially to the persons affected by such decision.

44. Reference is made to the decision of the Hon'ble Apex Court in the matter of ***Bachittar Singh vs. State of Punjab and Another*** reported in ***AIR 1963 SC 395.***

45. Reference is further made to the decision of ***Setty Auto Service Station vs. DDA*** reported in ***2009 1 SCC 180***.

46. Noting in a file can culminate into an executable order affecting the rights of the parties, only if it reaches the final decision making authority in the department, gets its approval and the final order is communicated to the parties concerned. The authorities simply asked the petitioner to stop collection of toll tax and take back his money, which by implication would lead any prudent person to understand that the same was in effect, cancellation of the agreement. The Pradhan and the members of the gram panchayat could have acted on the basis of the communication of the Block Development Officer, by not allowing the petitioner to continue beyond July 18, 2023.

47. The unilateral cancellation of the agreement which was a concluded contract, on the ground of non-compliance of the e-tender process, is not accepted. There was, at best, a technical irregularity. Moreover, such ground does not find any whisper in the order impugned. Only because the interim arrangement made by the court directing to Block Development Officer to collect the toll tax till disposal of the writ petition shows collection of a sum much higher than what was offered by the petitioner, the same cannot be a ground for upholding the order passed by the gram panchayat. It was not

the case of the panchayat that the selection of the petitioner has resulted in loss of revenue. There could be various reasons and factors which led to the enhancement in the collection of the toll tax and appreciation of such factors would be beyond the scope of the writ petitions. The claim of the state government of loss of public money cannot be a ground for the gram panchayat to resile from the contractual obligation. When the notice inviting tender was published, the authorities were satisfied that Rs.14,50,000/- should be kept as the base price. The petitioner was the highest bidder, who quoted Rs.15,05,000/- The authority was satisfied and had accepted such bid. Presumption is that the said authority acted in public interest. The gram panchayat, through the Pradhan entered, into the contract with eyes open. The same resulted in creation of an obligation on its part. The gram panchayat was bound by the terms of the agreement. For the first two years, the gram panchayat was competent to enter into the contract. Both parties could be bound by the terms and conditions of the agreement, at least for the first two years.

48. Thus, the principles of equity, fairness and restoration of trust in the action of the public authorities, leads this Court to hold that the order of cancellation of the agreement for the entire remaining period was arbitrary and violative of Article 14 of the Constitution of India. The petitioner should have been allowed to continue for the second term. Fairness in the action of the public authorities is also a matter of public interest. Courts need to have a broader understanding of public interest while reviewing the action of the concerned authority. Such was the decision of the Hon'ble Apex Court in the matter of ***Vice-Chairman and Managing Director, City and Industrial***

Development Corporation of Maharashtra Ltd. vs. Shishir Realty Pvt. Ltd. & Ors. reported in ***(2021) SCC Online SC 1141***.

49. The Hon'ble Apex Court held that whenever a public authority would seek to resile or relieve itself from the enforcement of a promise made or obligation undertaken on the plea of public interest, it was first legally bound to show the materials or circumstances under which public interest would be jeopardized, if the enforcement was insisted upon.

50. In the opinion of the Court, if the gram panchayat is now allowed to resile from the contractual obligation arising out of the agreement which they entered into consciously, the same would amount to loss of faith of the public in the action of a public authority. Fairness and equity would require that in the absence of any allegation of malpractice or mala fide against the petitioner and in the absence of any allegation that the petitioner had obtained the contract either by fraud or suppression, the contractual obligation arising from the agreement must be fulfilled by the authority for the period of the validity of tenure of the gram panchayat.

51. Under such circumstances, the impugned letter dated August 1, 2022, is set aside. The petitioner shall be allowed to function for a period of one year with effect from September 1, 2024 to August 31, 2025. The gram panchayat will enter into an agreement for the aforementioned period within two weeks from communication of this order. The cost of execution of the agreement shall be borne by the petitioner. The money which has been collected so far by the Block Development Officer, pursuant to the interim order passed by this Court, shall be deposited in the accounts of the gram panchayat, as income of the gram panchayat.

52. The writ petitions are, accordingly, disposed of.

53. There shall be no order as to costs.

54. Parties are to act on the basis of the server copy of this judgment.

(Shampa Sarkar, J.)