



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

PUBLIC INTEREST LITIGATION NO. 24 OF 2024

Parveen Kaisar Khan

.. Petitioner

versus

The State of Maharashtra & others

.. Respondents

Mr. S. S. Thombre, Advocate for the Petitioner.

Mr. A. A. A. Khan, AGP for the State.

**CORAM : RAVINDRA V. GHUGE
AND
R. M. JOSHI, JJ.**

RESERVED ON : 21st MARCH, 2024.
PRONOUNCED ON : 2nd APRIL, 2024

PER COURT : (Per R. M. Joshi, J.)

1. This Petition is filed seeking directions to the Respondents to cancel the work order dated 18th December, 2023, to carry out and complete work of construction of foot path and laying paver blocks along side the roads of Shahgunj Chaman to Nizamuddin Dargah (Zone No. 2) under the National Clear Air Programme (for short 'NCAP'), issued by the Executive Engineer (Roads) of the Municipal Corporation, Chhatrapati Sambhajinagar.

2. The Petitioner is the Ex-Corporator of Buddilane, Kabadipura and Nawabpura wards of Chhatrapati Sambhajanagar. It is her case that on 9th November, 2023, an E-Tender was notified on the official website of the Corporation as well as the same was published in the local newspapers for carrying out the work of constructing foot paths and laying paver blocks along side the roads. It is claimed that pursuant to the aforesaid E-Tender notice, Respondent No. 5 has submitted his tender and being the lowest bidder, it was accepted and work order came to be issued. It is the specific contention of the Petitioner that the Corporation cannot use the funds made available for NCAP for other work. On this ground, a direction is sought for cancellation of the said work.

3. The learned Advocate for the Petitioner has drawn our attention to the nature and scope of NCAP and tried to convince the Court about the work in question not being connected with the said programme and hence requires cancellation.

4. At the outset, it needs to be recorded that there is no allegation against the Respondents that any irregularities are committed in the tender process in respect of the work in question or

allotment thereof. The only grievance made by the Petitioner is that the funds received under NCAP cannot be utilised for the work other than covered by the said programme. In this regard we have carefully gone through the material placed before us wherein it is found that NCAP is aimed to improve air quality and public health by identifying cost-effective measures to reduce emission from all the known sources. It further indicates such measures also include reduction of road dust. In this backdrop, needless to say that the work of construction of foot paths and laying down paver blocks is aimed at reduction of emission of dust particles from foot paths on road. Prima faice, we are of the view that the work sought to be undertaken by the Corporation cannot be said to be alien/unconnected to the NCAP. Similarly, merely because some other funds are made available for the Corporation to do the said work, there is no bar/prohibition for using the funds received under NCAP for the same.

4. It is settled position of law that the Public Interest Litigation can be entertained by the Court provided that the action by the concerned authority is not in the interest of public. Here in this case, the Petitioner is unable to persuade us that the work

undertaken by the Corporation which is the subject matter of the present Public Interest Litigation comes within the said parameter. We have no reason to hold that the said work is against the interest of the public or the work has been carried out illegally from the funds not meant for the said work. In such circumstances, we do not find any propriety in issuing any direction against the Respondents.

5. In the result, the Public Interest Litigation is dismissed.

(R. M. JOSHI)
JUDGE

(RAVINDRA V. GHUGE)
JUDGE

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