



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

1017 WRIT PETITION NO. 3848 OF 2024

OMKAR CONSTRUCTION THROUGH ITS PROPRIETOR DADARAO
SHAHUJI DHAGE
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS PRINCIPAL SECRETARY
AND OTHERS

...
Advocate for the Petitioner : Mr. Bagul Dnyaneshwar Suresh
AGP for Respondent nos. 1 to 3 : Mr. K.S. Patil

...
WRIT PETITION NO. 3905 OF 2024

OMKAR CONSTRUCTION THROUGH ITS PROPRIETOR DADARAO
SHAHUJI DHAGE
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS PRINCIPAL SECRETARY
AND OTHERS

...
Advocate for the Petitioner : Mr. Bagul Dnyaneshwar Suresh
AGP for Respondent nos. 1 to 3 : Mr. K.S. Patil

...
WRIT PETITION NO. 3907 OF 2024

OMKAR CONSTRUCTION THROUGH ITS PROPRIETOR DADARAO
SHAHUJI DHAGE
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS PRINCIPAL SECRETARY
AND OTHERS

...
Advocate for the Petitioner : Mr. Bagul Dnyaneshwar Suresh
AGP for Respondent nos. 1 to 3 : Mr. K.S. Patil

...
CORAM : MANGESH S. PATIL &
SHAILESH P. BRAHME, JJ.

DATE : 16.07.2024

PER COURT :

We have heard both the sides for a considerable time.

2. The petitioner in all these petitions has participated in three separate tender processes initiated by respondent no. 3.
3. These petitions were filed on the ground that he has been disqualified by the impugned communication/order on the ground that for the reasons mentioned therein a proposal was forwarded for putting it in the blacklist as per the government resolution dated 17.09.2018.
4. During pendency of this petition, the decision was taken by the authorities and the petitioner has been blacklisted. He challenged the decision in Writ Petition No. 2432/2014. By the order dated 10.07.2024, keeping open the option to the respondents and in the light of affidavits in reply filed by them to withdraw the impugned order, the interim relief has been granted by staying the operation of the impugned order dated 21.06.2024. The petition has thereafter been directed to be listed for final hearing in 'urgent admission' category.
5. It is now being pointed out that in some what similar set of circumstances, a coordinate division bench in the matter of M/s. Nanak Construction Vs. State of Maharashtra in Writ Petition No. 16/2023 (Nagpur bench) by the order dated 20.01.2023 had directed the petitioner therein to be allowed to participate in the tender process and the respondents therein were so directed and the participation of the petitioner therein was declared as subject to the ultimate decision in respect of the blacklisting.
6. Considering the peculiar state of affairs, coupled with the fact that it is a matter of construction of roads, the balance of convenience in public interest would be in allowing the tender processes to go on and further enabling the petitioner to participate in the tender processes however, it would be subject to the final outcome of Writ Petition No. 2432/2024.
7. We, therefore, allow the writ petitions. The impugned order is quashed and set aside. The respondents may proceed with and conclude the

tender processes by allowing the petitioner to participate. His offer shall not be rejected only on the ground that he has been blacklisted.

8. The petitioner's participation would be subject to the final outcome of Writ Petition No. 2432/2024. He shall not be entitled to claim equities.

(SHAILESH P. BRAHME, J.)

(MANGESH S. PATIL, J.)

mkd/-