



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

46 WRIT PETITION NO. 5674 OF 2024

BHUTANI INTERNATIONAL PVT LTD THROUGH
ITS AUTHORIZED REPRESENTATIVE SACHIN KUMAR
VERSUS
THE STATE OF MAHARASHTRA THROUGH URBAN AND
DEVELOPMENT MINISTER AND OTHERS

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Advocate for the Petitioner : Mr. Niranjan Bhavake h/f. Dhawale Bhushan S
AGP for Respondents/State: Ms. Neha Kamble
Advocate for R/3 : Mr. Amol Jagtap
Advocate for R/4- Caveator : Mr. S.S. Gangakhedkar

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CORAM : RAVINDRA V. GHUGE &
Y.G. KHOBRAGADE, JJ.
DATE : 19th June, 2024

PC. :-

1. Leave to add the original complainant as Respondent No.4. Addition be carried out forthwith. Shri Gangakhedkar, learned advocate causes an appearance on behalf of Respondent No.4. He has also filed a Caveat in this matter.

2. The Petitioner has put-forth prayer clause-A and B as under:

“a. That this Hon'ble Court be pleased to issue appropriate writ, order and direction directing to quash and set aside the Email dated 17th May, 2024 issued by the Ld. the District Collector, Dharashiv (Respondent No. 3) to Government of Jammu and Kashmir on such terms as this Hon'ble Court may deem fit and proper.

b. That this Hon'ble Court be pleased to issue appropriate writ, order and direction directing to quash and set aside the letter dated 29th February, 2024 issued by the Respondent No. 3 on such terms as this Hon'ble Court may deem fit and proper.”

3. We have considered the submissions of the learned advocates for the respective sides and have perused the petition paper book with their assistance. Considering the order that we are passing, we are not required to advert to their arguments in detail. Suffice it to say that, the Petitioner was given a work order by the Municipal Council, Tuljapur for providing fabricated mobile toilet blocks. Since this was not done in time, there were various complaints.

4. Respondent No.4 was one of the complainants who had seriously pursued his complaint, leading to the Chief Officer, Municipal Council, Tuljapur Shri Laxman Kumbhar, passing an order on 29.02.2024, concluding that appropriate penalty be imposed on the Petitioner by deducting four days charges. He directed that the Petitioner should be placed in the blacklist of the Municipal Council, Tuljapur for three years until March-2027 and restrain the Petitioner from applying for any tender bid.

5. On 24.04.2024, the same Chief Officer Shri Laxman Kumbhar, conveyed to the Petitioner that, an appropriate procedure for enlisting the

Petitioner in the blacklist by adhering to the principles of natural justice, had not been followed and no steps have been taken to blacklist the Petitioner. Thereafter, the same Chief Officer directed a re-inquiry into the complaints against the Petitioner by placing reliance on a report which, according to the learned advocate for the Municipal Council, was generated by he himself and concluded that it would not be appropriate to include the Petitioner in the blacklist of the Tuljapur Municipal Council. The re-inquiry report was accepted by him.

6. It is *prima facie* visible that the Chief Officer Shri Laxman Kumbhar has been adopting shifting stands. The learned advocate for the Municipal Council is instructed to submit that the first order 29.02.2024, blacklisting the Petitioner was passed by the same C.O., the same officer has then passed an order dated 24.04.2024, concluding that no steps have been taken to blacklist the Petitioner and then he himself has caused a re-inquiry and has again passed an order dated 21.05.2024, concluding that Petitioner should not be blacklisted.

7. The learned advocate Shri Gangakhedkar, Caveator, has taken a serious exception to the conduct of the Chief Officer as referred to above. He submits that Clause 5.4 of the GR dated 01.12.2016 (internal page 78), provides for a procedure to be followed for blacklisting a contractor or

suspending the contract or removing him from allotment of any work. According to him, the Chief Officer has not even considered Clause 5.4 and has himself devised a mechanism to deal with the Petitioner. In one breath, he declares that the Petitioner is blacklisted (order dated 29.02.2024) and in another breath, he declares that the Petitioner is not liable to be blacklisted (order dated 21.05.2024).

8. Considering the above, the fact remains, at this stage, that the Petitioner was earlier blacklisted and the Chief Officer has tacitly re-called the blacklisting order by declaring after a re-inquiry conducted by himself, vide order dated 21.05.2024, that the Petitioner is not blacklisted. **This Writ Petition, therefore, would not survive and is, therefore, disposed off.**

9. Nevertheless, the fact remains that the Chief Officer has not followed the due procedure as is enunciated in the GR dated 01.12.2016, more specifically Clause 5.4. We, therefore, direct the District Collector, Dharashiv to consider Clause 5.4 of the GR dated 01.12.2016 and issue appropriate orders to the Chief Officer to deal with the pending complaints by following the due procedure laid down in law, which includes an opportunity of hearing to the Petitioner. Until then, since the Petitioner is not blacklisted, the communication to the Government of Jammu & Kashmir dated 17.05.2024, by which the District Collector has conveyed to the Government of Jammu &

Kashmir that the Petitioner has been blacklisted, shall be recalled and the District Collector would convey to the Government of Jammu & Kashmir that the Petitioner has not been blacklisted as on date.

[Y.G. KHOBRADE, J.]

[RAVINDRA V. GHUGE, J.]