

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.3699 OF 2024

M/s. Maharudra Systems

... Petitioner

V/s.

The State of Maharashtra, Through its
Secretary of Department of Energy, New
and Renewable Energy & Ors.

... Respondents

Mr. Suyash Khose for the Petitioner.

Mr. P. P. Kakade, GP, Mr. O. A. Chandurkar, Addl. GP, Mrs. G. R.
Raghuwanshi, AGP for Respondent No.1-State.

Mr. Sumeet Palsuledesai i/by M. V. Kini & Company for
Respondent Nos.2 to 6.

**CORAM : DEVENDRA KUMAR UPADHYAYA, CJ. &
ARIF S. DOCTOR, J.**

DATE : 3rd MAY 2024

P.C. :

Heard Mr. Khose, learned counsel representing the
Petitioner and Mr. Palsuledesai, learned counsel representing
Respondent Nos.2 to 6.

2. By instituting the proceedings of this Petition under Article 226 of the Constitution of India, the Petitioner challenges an order dated 16th February 2024, passed by the Superintending Engineer, Sindhudurg Board, M.I.D.C. Area, Mahavitaran Campus, Kudal, District-Sindhudurg, whereby the Letter of Award issued in favour of the Petitioner under e-Tender No.T-16 (2023-24) has been terminated with effect from 1st March 2024.

3. When we peruse the impugned order dated 16th February 2024, what we find is that it does not contain any reason whatsoever, even for the namesake, as to why the Letter of Award issued in favour of the Petitioner, has been terminated. The order only mentions that, "as per authority given to the undersigned as per terms and conditions of the said tender".

4. Under the terms and conditions of the tender or even Letter of Award, the Authority concerned may be vested with certain power to terminate the Letter of Award, however merely

because the Authority is possessed of such a power, it will not justify any and every order of termination of the Letter of Award, if it is bereft of reasons.

5. The learned counsel representing Respondent Nos.2 to 6 initially attempted to justify the order by referring to 'Clause J' of the general terms and conditions, according to which, for breach of contract, the work order could be terminated in whole or in part by a written notice of default. He also tried to justify the impugned order by referring to 'Clause 30(f)' of the agreement, according to which, in case the agency fails to deliver the work within specified time or in case services are not found in accordance with the prescribed norms, the tendering authority will exercise its discretionary power to avail from elsewhere such services and to cancel the contract. However, the said Clause clearly provides that the tendering authority can avail the services from the elsewhere only after giving due notice to the agency which is engaged. Thus, if we carefully read the terms and conditions as given in the agreement as also the tender conditions, what we find is that

any Letter of Award could not be terminated or cancelled by the Respondents without giving a notice to the Petitioner.

6. Having regard to the aforesaid facts, the Court, on 2nd May 2024 passed the following order :-

"P.C.:

*At the request made by learned counsel for respondents 2 to 6, stand over to **3rd May 2024** to enable him to seek complete instructions, specifically on the issues: as to whether the petitioner was ever associated with the inquiry said to have been conducted by the respondents on some complaint said to have been made by some third party; as to whether the petitioner was ever confronted with the said inquiry report; and as to whether any show-cause notice, before taking the impugned decision, was issued to the petitioner."*

7. The learned counsel representing Respondent Nos.2 to 6, on instructions received from Respondent No.6, submitted that before passing the impugned order, no show-cause notice or any other kind of notice was ever given; neither the Petitioner was ever associated with the inquiry which is said to have been conducted into the complaint received against him. Thus, it is rather admitted by the Respondents that the impugned order has been passed in flagrant violation of

principles of natural justice and, hence, the same can not be permitted to be sustained.

8. Accordingly, the Writ Petition is allowed.

9. The impugned order dated 16th February 2024, as is contained in Exhibit-"H" to the Writ Petition, is hereby quashed.

10. It will, however, be open to the Respondents to pass a fresh order after giving a show-cause notice to the Petitioner, requiring him to submit his explanation as to the intended action on the part of the Respondents.

11. There shall be no order as to costs.

(ARIF S. DOCTOR, J.)

(CHIEF JUSTICE)