

Jvs.

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

WRIT PETITION NO. 1059 OF 2024

JAYANT
VISHWANATH
SALUNKE

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VISHWANATH
SALUNKE
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M/s. Jay Anand Food Industries } Petitioner
versus
State of Maharashtra & Anr. } Respondents

Mr. Ashutosh M. Kulkarni with Mr. Vaibhav R. Gaikwad
and Mr. Raviraj Paramane for petitioner.

Mr. Hafeezur Rehman for respondent no. 2.

Mr. P. P. Kakade, Government Pleader with Mr. O. A.
Chandurkar, Additional Government Pleader and Ms. G.
R. Raghuwanshi, AGP for respondent no. 1.

**CORAM: DEVENDRA KUMAR UPADHYAYA, CJ. &
AMIT BORKAR, J.**

DATE: 2nd AUGUST 2024

P.C.:

1. This petition was initially filed with the following prayers: -

*"a. Rule be issued and record and proceedings
be called for;*

*b. This Hon'ble Court be pleased to declare
that the action of the Respondent No. 2
blacklisting the Petitioner is illegal, arbitrary and
against the principle of natural justice.*

*c. This Hon'ble Court be pleased to direct the
Respondent No. 2 to unblock the Petitioner from
e portal of M-Junction Portal and allow the
Petitioner to participate in future e-auctions
conducted by the Respondent No. 2.*

*d. This Hon'ble Court be pleased to direct the
Respondent No. 2 to refund the EMD amounts
deposited by the Petitioner with Respondent No.*

2 in the month of August 2020 totaling Rs. 11 lacs with accrued interest thereon."

2. By way of an amendment, the following prayers were also added: -

"d-1 This Hon'ble Court be pleased to quash and set aside impugned unsigned letter/communication dated 30.1.2024 issued by the Respondent No. 2. (Exhibit J)

f-1. Pending hearing and final disposal of Petition, this Hon'ble Court be pleased to stay effect, operation and implementation and execution of impugned unsigned letter/communication dated 31.1.2024 issued by the Respondent No. 2. Exhibit J)"

3. The petitioner is a proprietary firm and is engaged in the business of wheat flour and rice sorting and polishing.

4. On 28th January 2021, a show-cause notice was issued to the petitioner by respondent no. 2 requiring the petitioner to explain why action for forfeiture of EMD as well as debarment from participating in future tender process for one year should not be initiated against it. It appears that the petitioner did not respond to the said notice and accordingly, the respondent no. 2 issued a final notice on 25th June 2021 clearly stating therein that the said notice is the final notice and accordingly the petitioner should submit innocence certificate from Panvel Police Station or from appropriate Court within seven days otherwise it shall be debarred from participating in future auction with the respondent no. 2 for a period of one year.

5. It further appears that the petitioner even did not respond to this notice as well, however, no order of debarment was passed by respondent no. 2 before 30th January 2024. It is to be noticed that on 30th January 2024, the Assistant General Manager (Sales) of respondent no. 2 passed an order stating

therein that due to the ongoing criminal case bearing No. 544 of 2020 at a Court at Panvel, the petitioner-firm is debarred from participating in future e-auction with respondent no. 2 till the outcome of the case.

6. Let an affidavit be filed by the petitioner giving complete information about the criminal case pending at Panvel Court and its stage as well.

7. Stand over to **10th September 2024**.

8. In the meantime, rejoinder affidavit, if any, to the reply affidavit filed by respondent no. 2, may also be filed by the petitioner by the next date of listing.

(AMIT BORKAR, J.)

(CHIEF JUSTICE)