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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

REVIEW PETITION NO.133 OF 2024
IN
CIVIL WRIT PETITION NO.11682 OF 2024

ATUL
GANESH
KULKARNI

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F.A. Enterprises

... Petitioner

V/s.

The Managing Director, City and
Industrial Development Corporation
& Ors.

... Respondents

Mr. Karan Bhosale with Ms. Shweta Rathod i/by
Elixir Legal Services for the petitioner.

Mr. G.S. Hegde, Senior Advocate i/by Ms. P.M.
Bhansali for respondent Nos1 & 2-CIDCO.

Mr. P.P. Kakade, Government Pleader, with Mr. O.A.
Chandurkar, Additional G.P., and Mrs. G.R.
Raghuwanshi, AGP for respondent Nos.3 & 5-State.

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

DATED : OCTOBER 7, 2024

P.C.:

1. This petition seeks review of the judgment and order dated 22nd August 2024 whereby Writ Petition No.11682 of 2024 filed by the petitioner was dismissed.

2. By filing the writ petition, the petitioner had challenged tender notice dated 9th August 2024 issued for construction

of Kondhane dam on the ground that the petitioner was entitled to carry out the work which was the subject-matter of tender notice on the basis of an earlier work order issued to the petitioner and, therefore, the petitioner may be permitted to complete the work.

3. However, the Court did not find any substance in the said prayer, and accordingly dismissed the writ petition by means of judgment and order under review.

4. It has been informed that the judgment and order passed by this Court was challenged by the petitioner by filing Special Leave to Appeal (C) No.20340 of 2022, which was dismissed by the Hon'ble Supreme Court by means of order dated 9th September 2024.

5. Now, it has been argued by the learned counsel for the petitioner that the petitioner discovered a document, namely, letter dated 19th April 2022 written by the Central Designs Organization of the State Government to the Chief Engineer, City and Industrial Development Corporation, wherein it has been stated that before according approval to the lay-out, financial as well as technical feasibility and provisions needed thereof shall be ascertained by the competent field authority.

It has been stated that since the said document was not available with the petitioner at the time of filing of the writ petition as such on discovery of the same, review of the judgment and order dated 22nd August 2024 has been sought.

6. The submission is that in accordance with clause 14 of the letter dated 19th April 2022, the financial and technical feasibility were ascertained by the competent field authority, and as such tender notice dated 9th August 2024 which was impugned in the writ petition is illegal.

7. On a query, it has been informed by the learned counsel for the petitioner that the petitioner did not participate in the tender floated vide tender notice dated 9th August 2024.

8. In view of the aforesaid statement, we are of the considered opinion that a party who had not participated in the tender process cannot be permitted to challenge the tender condition once the last date of submission of bid is over. It may also be noted that the ground of challenge to the tender notice in the writ petition was that the petitioner was entitled to complete the work on the basis of an earlier work order issued in his favour, which prayer has not been acceded

to by us while dismissing the writ petition.

9. Accordingly, in view of the fact that the petitioner had not participated in the subject-tender pursuant to tender notice dated 9th August 2024, any challenge based on any alleged flaw in the tender notice cannot be entertained.

10. The review petition is, thus, dismissed.

(AMIT BORKAR, J.)

(CHIEF JUSTICE)