

Jvs.

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

WRIT PETITION NO. 1607 OF 2024

Karan Maintenance Services Pvt. Ltd. }	Petitioner
versus	
Mira Bhayander Municipal Corporation }	
& Anr. }	Respondents

JAYANT
VISHWANATH
SALUNKE

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JAYANT VISHWANATH
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**WITH
WRIT PETITION NO. 1608 OF 2024**

Shree Swami Samarth Security and }	
Hospitality Pvt. Ltd. }	Petitioner
versus	
Mira Bhayander Municipal Corporation }	
& Anr. }	Respondents

Mr. Karl Tamboly with Mr. Tarun Sharma,
Mr. Mahesh R. Patil and Ms. Garima Tiwari
for petitioner in WP/1607/2024.

Mr. Tarun S. Sharma (through VC) with
Mr. Mahesh R. Patil for petitioner in
WP/1608/2024.

Mr. N. R. Bubna for respondent no. 1

Ms. Neha S. Bhide, Government Pleader
with Mr. O. A. Chandurkar, Additional
Government Pleader and Ms. G. R.
Raghuwanshi, AGP for respondent no. 2
in both petitions.

**CORAM: ALOK ARADHE, CJ. &
SANDEEP V. MARNE, J.**

DATE: JUNE 18, 2025

P.C.:

1. With consent of learned counsel for the parties, heard finally.

2. In these writ petitions, the petitioners have assailed the validity of the order dated 25th January 2024, by which the work order issued in favour of the petitioners on 2nd March 2023 has been cancelled on the ground that the petitioners have not rendered satisfactory services.

3. Facts giving rise to filing of these petitions are that the Mira Bhayander Municipal Corporation (hereinafter referred to as "the Corporation") had, sometime in the year 2022, published a notice inviting tender from the contractors for the work of daily cleaning and supervision, maintenance of the public toilets of Zone 1 in the Corporation limits. The petitioners submitted their bids and were awarded the work orders. Accordingly, an agreement was executed on 31st March 2023 between the petitioners and the Corporation.

4. A notice dated 25th January 2024 was issued to the petitioners and other contractors regarding the maintenance and supervision of the public toilets being unsatisfactory. Thereupon, the Corporation, by an order dated 25th January 2024, terminated the contract of the petitioners on the ground that the petitioners have failed to render satisfactory services. Thereafter, on 25th January 2024 itself the Corporation has published notice inviting tender for the same work. Hence these petitions.

5. Learned counsel for the petitioners submits that the action of the Corporation in seeking to terminate the contract is *per se* arbitrary and irrational as neither any notice was issued to the petitioners seeking explanation nor an opportunity of hearing was afforded to them. However, it is contended that the agreement contains an arbitration clause, namely clause 32. It

is, however, pointed out that the aforesaid clause provides that the Commissioner of the Corporation has the final authority to take a decision. It is pointed out that in view of the mandate contained in section 12(1) read with '*Fifth Schedule*' and '*Sixth Schedule*' of the Arbitration and Conciliation Act, 1996, the Commissioner cannot be appointed as an Arbitrator. It is, therefore, submitted that a former Judge of this Court be appointed as a Sole Arbitrator to adjudicate the dispute.

6. On the other hand, learned counsel for respondent-Corporation has supported the decision taken by the Corporation and has submitted that the decision has been taken in consonance with the terms and conditions of the contract. However, it is fairly submitted by him that the dispute raised by the petitioners requires adjudication and an independent person be appointed as a Sole Arbitrator to adjudicate the disputes between the parties.

7. In view of the aforesaid submissions and in the facts and circumstances of the case, we appoint Mr. Justice R. Y. Ganoo, former Judge of this Court, as a Sole Arbitrator to adjudicate the dispute between the parties.

8. The parties shall appear before the Sole Arbitrator on 20th June 2025 at 11.00 a.m.

9. Needless to state that the petitioners shall be at liberty to move the Arbitral Tribunal seeking reliefs under section 17 of the Arbitration and Conciliation Act, 1996.

10. With the aforesaid directions, the writ petitions are disposed of

(SANDEEP V. MARNE, J.)

(CHIEF JUSTICE)