

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.1179 OF 2025

M/s Dharavi Decorators Pvt. Ltd. .. Petitioner

Versus

Mira Bhayander Municipal .. Respondents
Corporation & Ors.

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Mr.Aseem Naphade with Ms.Apurva Gupte, Mr.Tarun Sharma
and Mr.Mahesh R. Patil for the Petitioner.

Mr.Pramod N. Patil with Mr.Ashish S. Gaikwad, Mr.Anirudh R.
Rote and Ms.Sufiya B. Siddiqui for the Respondent Nos.1 and 2
(MBMC).

Mrs.Neha S. Bhide, Government Pleader with
Mr.O.A.Chandurkar, Additional Government Pleader and
Mrs.R.A.Salunkhe, A.G.P. for the State/Respondent No.3.

CORAM: ALOK ARADHE, C.J. &
BHARATI DANGRE, J.
DATED : 12th FEBRUARY, 2025

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ORDER (PER BHARATI DANGRE, J.):

1. The Petitioner, M/s.Dharavi Decorators Pvt. Ltd., a Private Limited Company, registered under the Companies Act, 1956 and having its office in District Thane, has raised a challenge to the tender floated by the Respondent No.1-Mira Bhayander Municipal Corporation on 31/12/2024 on the official website i.e. <http://mahatenders.gov.in> and the Petitioner has alleged it to be arbitrary, unilateral and illegal, since, it is issued during subsistence of the old tender awarded in favour of the Petitioner.

According to the Petitioner, who has been providing services to Municipal Corporations by participating in various events and functions organised within its jurisdiction, it has been engaged in arranging various functions since 2002 and till 2019, by entrusting the job of arranging lights, stage, chair, speaker set etc. and it is the claim of the Petitioner that it has successfully completed more than 4000 functions organised by the Respondent No.1, without any blemish.

2. From time to time, the work was allotted in favour of the Petitioner by the Respondent No.1 and before completion of period of five years of the work order issued to it on 09/02/2016, a public notice/advertisement was issued on 28/12/2020 inviting bids from general public for *“Arrangement of Pandal, lights, stage, chair, partition, speaker set, generator, table etc. for multi-religious festivals and events Municipal Election etc.”*.

The Petitioner participated in the said tender and on being declared as lowest bidder, the Respondent No.1-Corporation passed a Resolution on 26/02/2021, pursuant to which an agreement was entered with the Petitioner on 04/06/2021, setting out the terms and conditions, subject to which, it was allotted the work.

Similarly, the work order allotted to it on 07/06/2021, highlighted the scope and it is a specific contention of the Petitioner that the said contract is valid as on date. As per the Petition, on being awarded with the tender, the Petitioner furnished security deposit as per the tender requirement to the tune of Rs.90,28,133/- covering period of five years of the

agreement that was executed. Further, in lieu of the tender being awarded in its favour, it made various purchases amounting to Rs.3,25,00,000/- by obtaining loan and, additionally, he purchased five years' insurance policy, which is valid till 2027 and around 633 employees are hired it for completion of the work, which is allotted to it. Therefore, it is pleaded that the decision of the Corporation to abruptly terminate the contract awarded to the Petitioner is arbitrary, as the Petitioner under the on-going contract is yet to receive an amount of Rs.4,86,00,000/-, and as such it is imperative for the Corporation to provide the work to the Petitioner as long as the Work Order issued in its favour remain in force.

3. The Petition plead that on 04/10/2024, a tender was floated by the Corporation, when the Petitioner approached this Court by filing Writ Petition No.14330 of 2024, but the same was eventually cancelled. Another tender for the same work was once again published on 13/12/2024, which was also recalled on 30/12/2024, to be followed by a fresh tender being uploaded with an approximate value of Rs.9,32,20.339/- vide Tender Notice No.124 dated 31/12/2024 and the said notice permitted the tenders to be submitted on or before 27/01/2025, to be opened on 28/01/2025.

4. The Petitioner is aggrieved by issuance of the aforesaid Tender Notice, as it apprehends that to cut short the work allotted to it in the year 2020 by Work Order dated 28/12/2020, new tender is floated.

His concern was taken note of, when we heard the Petitioner on 27/01/2025 and on being confronted, learned counsel for the Respondent categorically stated before us that the notice inviting tenders is issued for empanelment of other Contractors and it will not affect the earlier work order issued in favour of the Petitioner and time was sought to file the affidavit-in-reply.

5. As a compliance to the aforesaid, the Executive Engineer of Mira Bhayandar Municipal Corporation, has filed an affidavit, which identified the grievance of the Petitioner and it contain the following statement:-

“b)The period of the said contract between the Petitioner and Respondent Corporation is till 07.06.2026. The contractual amount as well as contractual period under the said contract will get exhausted in the near future and, therefore, the Respondent Corporation was constrained to float new tenders so that the Corporation would not be required to run helter skelter if need arises in future. I say that the said contract between the Petitioner and Respondent Corporation has not been cancelled by the Respondent Corporation and the Respondent Corporation does not intend to cancel the said contract unless for the reasons such as breach of terms and conditions of the said contract. In view of this, I say that there is no cause of action for the Petitioner to file the present petition.

c) I say that the State Government has now taken a policy decision to empanel contractors on rate contract basis. This is with a view to avoid monopoly of certain contractors. Further, when empanelment is done, the Corporation stands to gain because of competition between the empanelled contractors which would lower the rates of the contract. Therefore, after following due process, the Respondent Corporation floated a tender, i.e., tender No.87 dated 04.10.2024, which is annexed at Exhibit S, page No.245 of the petition. From the bare perusal of the said tender it is abundantly clear that the value of the said tender is approximately Rs.4.92 crore and the period of the tender is for two years. Due to typographical error, instead of two years in the tender documents, five years was mentioned and the same was corrected by issuing a corrigendum. The said tender was for the purposes of empanelment of contractors for the purposes mentioned in the said tender. Clause 11 of the said tender

documents clearly stipulates that the Respondent Corporation proposed to set up a panel of contractors for arrangement of mandap, stage, generator, chairs, tables etc based on the rates received from the contractors and a firm rate shall be decided and thereafter the Corporation will allot work to the contractors area-wise as and when required. Even while issuing this tender, the initial contract between the Petitioner and Corporation was not cancelled. The said tender No.87 dated 04.10.2024 came to be challenged by the Petitioner by way of a writ petition No.14330 of 2024 before this Hon'ble Court. The copy of the said writ petition is annexed at Exhibit A, page No.32 of the petition.

6. The affidavit of the Respondent further informs us that Tender No.24 dated 31/12/2024 is for approximate value of Rs.9,32,20,339/- excluding GST and it is for empanelment of contractors for a period of two years.

We are also apprised that pursuant to the said tender, the Corporation has opened the technical bids and as of now, two bidders, including the Petitioner, have been found to be eligible and the Corporation has called for compliance from other four bidders, but the tender is not yet finalized.

In paragraph 7 of the affidavit, it is stated thus :-

“I say that the previous contract with the Petitioner under the tender No.61 dated 28/12/2020, is not cancelled by the Respondent Corporation.”

7. In the wake of the aforesaid statement contained in the affidavit and by taking into consideration the specific statement made by Mr.Promod Patil, the counsel representing MBMC, we have no difficulty in accepting his statement that the contract of the Petitioner has not been cancelled and shall in normal circumstances, be continued till 07/06/2026.

But, Mr.Naphade, representing the Petitioner, has expressed his concern to the effect that if it's contract is not

terminated and shall subsist till 07/06/2026, whether it shall be awarded any work, if a new contractor is appointed under Tender No.124 and the response to this concern is to be found in paragraph (b) of the affidavit, which we have already reproduced above, as it is stated that the contract period of the Petitioner will be exhausted in future and the tender is invited, so that the Corporation is not required to run helter skelter, if need arises in future.

According to us, the aforesaid statement takes care of the concern expressed by Mr.Naphade and by recording that the Corporation-Respondent No.1 shall allot the work to the Petitioner in terms of the Work Order issued in his favour on 08/06/2021 and which is valid till 07/06/2026, we deem it appropriate to dispose of the Writ Petition.

In any case, we must clarify that the Petitioner has also participated in the fresh Tender No.124, it is open for the Corporation to consider its bid and if the Petitioner is successful bidder in the fresh tender, the statement on behalf of the Corporation that its work awarded under the earlier tender vide Tender No.61 dated 28/12/2020 shall not be impacted in any way, shall be abided by.

8. With this clarification, the Writ Petition is disposed of.

(BHARATI DANGRE, J.)

(CHIEF JUSTICE)