IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 12423 OF 2025

1. Vaidya Industries,)
Sole Proprietorship,)
having its Registered Office at:-)
Khasara No.89/A5, Khasara No.89)
On Besa Ghogali Main Road,)
Near Swami Samarth Mandir, Beltarodi)
Nagpur-440 037)

2. Vivek Vinayak Vaidya,)
Age : 51 yers, Occu. : Business,)
Proprietor of Vaidya Industries)
Having Address at :- Plot No. 117,)
Vinayak Enclave Apartment,)
Vivekanand Nagar, Near Manish Nagar,)
Somal wada, Nagpur-400 015) ...Petitioners

V/s.

1. The State of Maharashtra,)
Through Principal Secretary,)
Mantralaya, Mumbai-400 032)

2. The Chief Secretary,)
Government of Maharashtra,)
Mantralaya, Mumbai-400 032)

3. The Secretary,)
Tribal Development Department,)
Mantralaya, Mumbai-400 032)

4. The Additional Secretary,)
Tribal Development Department,)
Mantralaya, Mumbai-400 032)

5. The Commissioner,)
Tribal Development Department,)
Adivasi Vikas Bhavan, 1st Floor,)
Ram Ganesh Gadkari Chowk,)
Old Agra Road, Nashik.) ...Respondents

Mr. Rohan P. Surve for the Petitioners.

Ms. S. D. Vyas, Addl. G. P. a/w Mr. M. M. Pabale, AGP for the Respondent Nos.1 to 5.

CORAM : REVATI MOHITE DERE &
SANDESH D. PATIL, JJ.

DATE : 25th NOVEMBER, 2025.

Oral Judgment (Per Sandesh D. Patil, J.) :-

1. Heard learned Counsel for the parties.

2. **Rule.** Rule is made returnable forthwith with the consent of

the parties and taken up for final disposal.

3. By the present Writ Petition, the Petitioners are seeking cancellation of Government Order dated 14.08.2025 whereby the Administrative and Financial Approval granted to the Petitioners was quashed and set aside. The Petitioners also pray for a direction against the Respondent No.5 to forthwith execute an agreement with the Petitioners and provide Consignee Distribution List to the Petitioners. Relief is also sought restraining the Respondent No.5 from issuing fresh tender for procurement and supply of steel shelving almirah (4 doors) to the students of the Government Ashram Schools governed by the Tribal Development Department, State of Maharashtra.

4. Learned Counsel appearing for the Petitioners submits that, the Petitioners were issued a work order dated 18.02.2025 for procurement and supply of the Steel Shelving Almirah to the students of Government Ashram Schools, Tribal Development Department, State of Maharashtra for the year 2024-25; however the Respondents

neither executed the agreement with the Petitioner nor provided Consignee Distribution List to them. According to the learned Counsel, after issuance of the work order dated 18.02.2025, the Petitioners commenced manufacturing the work. The Petitioners incurred huge expenditure in manufacturing the required materials. He further submits that the act of the Respondent-State in issuing the Government Order dated 14.08.2025 thereby, cancelling Administrative and Financial Approval which was already granted for procurement in terms of the work order dated 18.02.2025 is illegal, highhanded and arbitrary. He states that once the work order was issued, the Respondents could not have cancelled the same by issuing the Government Order dated 14.08.2025. He submits that, the Government was duty bound to execute the agreement in their favour and that by the illegal act of the Government in cancelling the work order dated 18.02.2025, much prejudice was caused to the Petitioners. He therefore, submitted that the Respondent No.5 be directed to forthwith execute the agreement in favour of the Petitioner and complete the contract by accepting the Almirah which were manufactured by the Petitioner.

5. Learned AGP appearing for the Respondents contested the claim of the Petitioner. He states that there was no concluded contract executed in favour of the Petitioner and that vide the Government Order dated 14.08.2025, the Respondents have rightly terminated the contract. He states that the tender in question was issued in gross defiance of paragraph 3.2.5 of the Government Resolution dated 01.12.2016. He further states that admittedly, there was no agreement executed in favour of the Petitioner nor there was any timeframe stipulated for delivery of the goods and therefore, the Administrative and Financial Approval was rightly cancelled by the said order. He states that merely by issuing the work order, no right was created in favour of the Petitioner. He further states that the Petitioner should have got the agreement executed in their favour and thereafter, got the work executed. He stated that the Petition therefore, deserves to be dismissed.

6. Having heard the learned Counsel for the Petitioner as well as the learned AGP for the Respondent-State, it is clear that the principle challenge of the Petitioner is to the order dated 14.08.2025 passed by the Respondents-State, whereby, the approval granted to the work order dated 18.02.2025 granted in Petitioner's favour came to be quashed. The Petitioners also pray for directions against the Respondent No.5 to execute an agreement with the Petitioner. Thus, what the Petitioners want is, specific performance of the contract allegedly entered into between the Petitioners and the Respondent No.5. The Petitioners also seek a relief that the termination of the contract be declared to be illegal. We have perused the impugned order dated 14.08.2025 issued by the Respondent No.5. Paragraph No.5 of the said order states that:

> *"the tenders were not invited after publishing it on the e-tender portal"*

7. The impugned Order is passed predominantly on the ground that, tenders are not invited after publishing it on the e-tender portal. The work order dated 18.02.2025 is in teeth of clause 3.2.5 of

the Government order dated 01.12.2016. Clause 3.2.5 is reproduced as under.

> *" ... The details of proposed purchase items by the Purchase Department (e.g. required products, quantities etc.) and the details of supplies made against the proposal (e.g. products, quantities etc.) should be published on the e-portal from time to time with the help of Directorate of Information & Technology. Similarly, the Purchase Department should ensure that the supplies for the said fixed period do not exceed the initial demands."*

8. In this circumstance, a detailed factual analysis of the matter is required and that the *lis* in the writ cannot be determined on question of law alone.

9. Further, although the Commissioner has issued the letter dated 18.02.2025 for the purpose of supplying the goods in question, no agreement was executed in favour of the Petitioners nor was any timeline prescribed for the purpose of delivery of goods. In such an eventuality, the very nature of the transaction appears to be marred by various disputes and questions of facts. In order to grant any relief in favour of the Petitioners, it will have to be first declared that the

Petitioners have got a subsisting right in their favour and that a direction will have to be issued to the Respondents-State to execute a contract in favour of the Petitioners. The Petitioners are aware of their position and they have, therefore prayed for this specific relief. In our opinion, this is nothing but seeking specific performance of the contract; which in our view will have to be adjudicated before the competent Civil Court. The contention of the Petitioners that he has spent lakhs of rupees on execution of the contract and therefore, the contract be awarded in his favour, at first blush appears to have some force, however, in absence of legitimate agreement executed in favour of the Petitioner, it will be very difficult to grant any relief to the Petitioner. There are several disputed questions involved in this Petition. In the event, the Petitioners fail to get relief of getting agreement executed in his favour, the question will arise as to what will happen to the loss which is caused to the Petitioners, in as much as, by virtue of the work order dated 18.02.2025, the Petitioners had started with the work. In such a contingency, the Petitioner will be entitled to seek damages. All these questions certainly cannot be gone into writ jurisdiction. Even otherwise, the present dispute appears to be purely a commercial dispute and it would not be proper to entertain such a dispute in exercise of writ jurisdiction. We are aware of the position of law as laid down in ***Whirlpool Corporation v. Registrar of Trade Marks, Mumbai [(1998) 8 SCC 1]*** that, existence of alternate remedy does not bar the constitutional Court from entertaining writ petition. However, in the facts, we choose to exercise self imposed restrain and therefore, decide not to entertain the present Petition. We however, make it clear that, the Petitioners will be at liberty to file appropriate proceeding before the Civil Court and raise all the contentions which are raised by the Petitioners in this Petition, including the claim of damages, if they so desire.

10. **Rule** is made absolute on the aforesaid terms.

11. The Petition is disposed of accordingly.

12. We make it clear that, we have not made any observations

on merits of the matter and keep all contentions of all the parties on merits open.

13. All concerned parties to act on the authenticated copy of the said order.

(SANDESH D. PATIL, J.) **(REVATI MOHITE DERE, J.)**