



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO. 2189 OF 2025

Pentacle Consultants Pvt. Ltd.

...Petitioner

Versus

Municipal Corporation of Gr. Mumbai & Ors.

...Respondents

Mr. Simil Purohit, Sr. Adv. a/w Dharam Jamani, Pooja Batra, Suraj Iyer & Gauri Joshi i/by Ganesh & Co., for Petitioner.

Mr. Girish Godbole, Sr. Adv. a/w Rutuja Bodake i/b Komal Punjabi for Respondent No.1-BMC.

Mr. Premanand Sarkate, Sub-Engineer, Bridge Dep. "S" ward, Present.

CORAM: G. S. KULKARNI &
ARIF S. DOCTOR, JJ.

DATE: 03 JULY 2025

P.C.

1. We have heard Mr. Purohit, learned senior counsel for the petitioner and Mr. Godbole, learned senior counsel for Municipal Corporation.

2. This petition under Article 226 of the Constitution of India is filed challenging a communication dated 5 March 2025 issued by the Executive Engineer (Z-VI), whereby, the petitioner has been black listed and barred from the Municipal Corporation as a consultant from the period of 12 February 2025 to 11 February 2026. The relevant contents of the impugned communication are required to be noted which reads thus:

"Date 5 March 2025
From,
Chief Engineer (Bridge),

Engineering Hub
Building,
Zero floor, E.Moses Road,
Opp. Geeta Talkies,
Worli,
Mumbai - 400 018.
Tel. No.(022) -
24958001,
24958101

To,
M/s Pentacle Consultants (India) Pvt. Ltd.
A-1709, One Lodha Place,
Senapati Papat Marg,
Lower Parel,
Mumbai - 400013.

Subject :- Hon MC Sirs remark regarding barring of your services from BMC for 1 Year.

Name of Work :- Demolition and Reconstruction of Deteriorated/Dangerous Three Bridges on nallas on Usha nagar Nalla System as per BRIMSTOWAD report;

1. At Chamunda Nagar, near Menon college at Veer Savarkar Marg, Bhandup (East) in 'S' Ward.
2. Between Chamunda Nagar and Hema Park, near Menon college at Veer savarkar Marg, Bhandup (East) in 'S' Ward.
3. Near Hema Park at Veer Savarkar Marg, Bhandup (East) in 'S' Ward.

Ref. :- Hon'ble M.C.'s instructions vide MGC/F/5153 dtd.12.02.2025.

Gentlemen,

This is in context to the design consultancy services provided by you for the work of 3 culverts on Veer Savarkar Road at Bhandup East in S ward. On a file put up for approval, Hon MC Sir has given direction that *"In the meanwhile the said consultant should be barred from taking up any new assignment in BMC, for the period of one yer, however services for ongoing works shall continue."* A copy of the same is attached for your reference please.

Accordingly you are hereby informed that your consultancy services will be barred from BMC from 12.02.2025 to 11.02.2026.

Executive Engineer Z-VI"

3. The contention of the petitioner is that the procedure known to law that is issuance of a show cause notice was not followed by the respondent - Municipal

Corporation. In fact, on a direction of the Municipal Commissioner, such action has been taken which would wholly not satisfy the test of law. It is contended that the petitioner has been working as a consultant for the Corporation since the year 2010, and was involved in different projects of the Municipal Corporation. However, the project in question as seen from the name of the work is the project which is in hand.

4. Mr. Godbole, has vehemently opposed the petition to submit that the action as taken by the impugned order is justified in the facts and circumstances. He submits that even if the show cause notice was not issued, the correspondence and the communication which was addressed to the petitioner, pointing out the defects and the deficiency in his services, was sufficient for the petitioner to infer that the petitioner could be black listed. He further prays for dismissal of this petition.

5. In our opinion, the manner in which the impugned order has been passed, certainly, would not be acceptable, considering the well settled principles of law. Any action of black listing or debarring a contractor is an action which entails civil consequences hence the same would be required to be undertaken by following the due procedure in law of a specific notice and opportunity of being heard. The law in this regard is well settled, in the decisions of **Gorkha Security Services Ltd. Vs. Government of NCT of Delhi & Ors.¹**, **Southern Painters Vs. Fertilizers & Chemicals Travancore Ltd.²**, **The Blue Dreamz Advertising Pvt. Ltd & Anr. Vs.**

1 2014(9) SCC 105

2 1994 AIR 1277, 1994 (2) SCC (Supp) 699

Kolkata Municipal Corporation & Ors.³, UMC Technologies Vs. Food Corporation of India.⁴, Daffodills Pharmaceuticals Ltd. Vs. State of UP.⁵ & Eurasian Equipments and Chemicals Ltd. Vs. State of West Bengal & Anr.⁶

6. Admittedly, no show cause notice was issued to the petitioner. Also the petitioner was not heard thus completely bypassing these well established principle and the fair procedure, the petitioner has been de-barred and/or black listed.

7. In the aforesaid circumstances, we are of the clear opinion that the interest of justice would require the Court to set aside the impugned communication dated 5 March 2025 and permit the Municipal Corporation to resort to further appropriate action as per law. Hence the following order:

ORDER

(i) The impugned communication dated 5 March 2025, barring the petitioner by the BMC for the period of 12 February 2025 to 11 February 2026 is quashed and set aside.

(ii) It is open to the Municipal Corporation to follow due procedure in law by issuance of a show cause notice and granting an opportunity to the petitioner to reply to the show cause notice and of being heard to pass appropriate orders in accordance with law.

8. All contentions of the parties in that regard are expressly kept open.

3 SLP (Civil) No.11682 of 2018

4 (2021) 2 SCC 551

5 (2020) 18 SCC 550

6 1975 AIR SC 266

9. The petition stands disposed of in the aforesaid terms. No costs.
10. Needless to observe that if the further procedure is to be resorted, the appropriate / competent officer of the Municipal Corporation shall hold such proceedings and pass appropriate order in accordance with law.

(ARIF S. DOCTOR, J.)

(G. S. KULKARNI, J.)