



IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH : NAGPUR.

WRIT PETITION NO. 1328 of 2025

Jaswantsingh Oberoi Construction Pvt. Ltd

vs.

The State of Maharashtra and others.

Mr. A.A.Naik, Senior Advocate a/b Mr. J. B.Gandhi, Advocate for petitioner.
Mr S. M. Ukey, Additional Govt. Pleader for respondent nos. 1 to 4.

CORAM :- ANIL S. KILOR and RAJNISH R. VYAS, JJ.

DATE :- 15th DECEMBER, 2025

P. C.

By the present writ petition, a challenge is raised to the deduction of amount of Rs.4,10,00,000/- (Rs.Four Crores and Ten Lakhs) from the final bill submitted by the petitioner as arbitrary, unreasonable and violative of Article 14 of the Constitution of India.

2. The petitioner is a Construction Company and has issued a license by the Public Works Department as Class I A Contractor. In a tender published by the respondent no.2 for construction for improvement of Patan Mukutban Road under C.R.F .Tq. Zari, District Yavatmal, on 29.08.2019, the petitioner participated and succeeded in getting the work order.

3. Admittedly, in the tender document the Clause in relation to the price escalation/price adjustment i.e. Clause 19.7.4(A) was deleted; however, Clause for price escalation/price adjusted is provided vide Clause No.19.7.2.

4. Shri Ukey, learned Additional Government Pleader, on instructions of Shri Dudhade, Executive Engineer, who is present in the Court, made a statement to the extent that if there is a price escalation/price adjustment clause, a formula shall be provided for such price escalation/price adjustment. It is submitted that since such formula was not provided, the impugned deduction was made.

5. However, at the same time, he is not denying the case of the petitioner that in absence of such formula, the petitioner made a request to the

concerned Executive Engineer vide letter dated 21.03.2022, which is at page 151 of the record. The said letter shows that the petitioner made a request to the respondents authorities that since Clause 19.7.2 provides for price adjustment, it is necessary to give price escalation/price adjustment formula. Accordingly the petitioner requested for such formula.

6. In the light of the said letter dated 21.03.2022 issued by the petitioner, the Executive Engineer wrote letter to the Superintending Engineer as well as the Chief Engineer requesting for providing formula vide letters dated 25.03.2022 and 30.03.2022 respectively.

7. The Chief Engineer accordingly vide letter dated 30.03.2022 communicated to the Executive Engineer the formula available in the record. This was in response to the letter written by the Executive Engineer dated 30.03.2022.

8. Thereafter, the petitioner submitted its 20th R.A.Bill which was granted by the respondents authorities. However, when the petitioner submitted its Final R.A.Bill, an amount of Rs.4,10,00,000/-(Rs.Four Crores and Ten Lakhs) came to be deducted.

9. From the above referred facts, it is evident that though in the contract price adjustment Clause 19.7.4(A) was deleted, price adjustment Clause 19.7.2 was maintained. If a price adjustment Clause is there, a formula shall be provided for such price adjustment. When such an anomaly was pointed out by the petitioner to the respondents authorities that though a price adjustment is provided, there is no formula for the same, the correspondence was made by the Executive Engineer with the Superintendent Engineer and the Chief Engineer. Whereupon, the Chief Engineer furnished the formula for such price adjustment. The payment that was made to the petitioner in respect of 20th R.A.Bill was after such a formula informed/furnished by the Chief Engineer to the Executive Engineer.

10. It is to be noted that it is not the case of the respondents authorities that the petitioner is not entitled to price escalation under the contract.

11. Once the respondents authorities have agreed that the petitioner is entitled to price escalation/price adjustment, it is the duty of the respondents authorities to provide a formula for the same and make the payment as per such formula, if the petitioner is entitled for the same.

12. At the same time, if there is a provision for price adjustment in the contract, the same cannot be denied for the reason that there is no formula provided for price escalation/price adjustment.

13. In the above referred backdrop, deduction of Rs.4,10,00,000/- (Rs.Four Crores and Ten Lakhs) from the final bill submitted by the petitioner is illegal and unsustainable in the eyes of law.

14. In that view of the matter, we pass the following order:

- (i) The writ petition is allowed.
 - (ii) The action of the respondents in deducting the amount of Rs.4,10,00,000/- (Rs.Four Crores and Ten Lakhs) from the final bill submitted by the petitioner is hereby quashed and set aside.
 - (iii) However, we grant liberty to the respondents authorities to calculate the amount as per the formula available with the respondents authorities in this respect and after applying such formula, if the authorities would come to the conclusion that some excess payment is made to the petitioner, the same may be recovered from the petitioner after following due procedure i.e.giving show cause to the petitioner and giving opportunity to the petitioner to make submissions as regards such recovery.
- The writ petition is **disposed of** accordingly. No order as to costs.

(RAJNISH R. VYAS, J.)

(ANIL S. KILOR, J.)

Andurkar.