IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL WRIT PETITION NO.16206 OF 2025

M/s. Lonavala Construction
Company thr. Its partner ….Petitioner

Versus

The State of Maharashtra thr.
Urban Department and anr. ….Respondents

WITH

CIVIL WRIT PETITION NO.16207 OF 2025

M/s. Lonavala Construction
Company thr. Its partner ….Petitioner

Versus

The State of Maharashtra thr.
Urban Department and anr. ….Respondents

Mr. Ashutosh Kulkarni a/w Ms. Shaheen Kapadia, Mr. Irfan Unwala for the Petitioner in both the Petitions.

Mr. O A. Chandurkar, Addl.GP a/w Ms. G. R. Raghuwanshi, AGP for the Respondent – State in WP No.16206 of 2025.

Mrs. P. J. Gavhane, AGP for Respondent – State in WP No.16207 of 2025.

Ms. Shakuntala Wadekar, for Respondent No.2 - Lonavala Municipal Council.

CORAM : RAVINDRA V. GHUGE &
ABHAY J. MANTRI, JJ.

DATE : 6th FEBRUARY, 2026

P.C. :-

1. We have heard the learned Advocate for the Petitioner and the learned Advocate representing Respondent No.2 - The Chief Officer, Lonavala Municipal Council (“Council”).

This order is corrected as per the speaking to minutes of order dated 12/02/2026.

2. The learned Advocate for the Petitioner submits that the works under the Contracts, in Writ Petition No.16206 of 2025 is completed in the year 2022, and in Writ Petition No.16207 of 2025, it was completed in the year 2020.

3. Despite repeating our following questions, we are not getting satisfactory answers, which are as under :-

(a) When the Contracts are concluded in year 2022 in the first Petition and in the year 2020 in the 2nd Petition, why the audit objections were raised in January, 2026?

(b) Though the Contracts have a condition that if there is audit objection, the earnest deposit money would be adjusted towards the amount to be recovered from the Petitioner, what are the audit objections due to which amounts of Rs.29,07,581/- and Rs.6,26,265/-, have been retained ?

(c) Why is the quantum of amount to be recovered, not yet quantified ?

4. The learned Advocate appearing for Respondent No.2 - Council has filed an Affidavit-in-Reply. The said Reply is silent on why the audit objections are raised after three years and that too

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without specifications; why the quantification of the amount to be recovered from the Petitioner was not carried out; what is the reason & basis of withholding the deposit? There are no answers to the above questions. Withholding of the amount would amount to an adverse action without justification.

5. We find from the Affidavit-in-Reply filed by the Council that they are only pointing towards Clause No.17 of the Agreement between the Council and the Petitioner as being the basis for withholding of the said amount. However, there is no justification. A reply of four paragraphs is tendered to the Court by the Municipal Council which is completely silent on this aspect.

6. Though, the Municipal Council had an opportunity to justify the reasons for withholding the amount, there is not a whisper in the Affidavit-in-Reply, save and except, that Clause 17 empowers the Council to withhold the money.

7. We are unable to accept the submissions for the reason that no State instrumentality can act high-handedly and forfeit the earnest deposit amount on the spacious plea that Clause 17 empowers the Municipal Council to withhold the amount.

8. In view of the above, **this Petition is partly allowed.** The communication dated 1st October, 2025 is quashed and set aside in Writ Petition No.16206 of 2025. There is no such communication in Writ Petition No.16207 of 2025. The same is disposed off with the directions commonly issued in both these cases.

9. The Municipal Council shall release the withheld earnest deposit amount and security deposit amount, within 30 days from today. If the said amounts are not released, simple interest @ 5% per annum be paid with the amount for the further period of 30 days.

10. However, we clarify that in the event, the Municipal Council follows the due procedure to quantify the amount to be recovered from the Petitioner on the basis of the audit objections and if there is no other legal impediment, the Petitioner would be at liberty to deal with such demand if it is so raised.

(ABHAY J. MANTRI, J.) **(RAVINDRA V. GHUGE, J.)**

This order is corrected as per the speaking to minutes of order dated 12/02/2026.