

**(2014) 09 BOM CK 0015**

**In the Bombay High Court**

**Case No : Writ Petition No. 4860 of 2012**

Ambika Bahu-uddeshiya Gram Vikas Sansthan

APPELLANT

Vs

State of Maharashtra

RESPONDENT

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**Date of Decision :** 17-09-2014

**Acts Referred:**

**Citation :** (2014) 6 ALLMR 695 : (2015) 2 MhLj 126

**Hon'ble Judges :** C.V. Bhadang, J;A.P. Bhangale, J

**Bench :** Division Bench

**Advocate :** P.J. Mehta, h/f. Aditya Satpute, Advocate for the Appellant; Shyam Ahirkar, A.G.P, Advocate for the Respondent

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## **Judgement**

A.P. Bhangale, J.—By this petition, the petitioner has prayed to quash and set aside the order passed by respondent No. 2, Dt. 16.8.2012 which was communicated to respondent No. 5 vide letter Dt. 18.9.2012 by respondent Nos. 1 and 3. It is further prayed that directions be issued to Authorities/respondent Nos. 1 and 2 to award the contract under Community Based Monitoring Project to the petitioner Organisation and appoint it as District Nodal NGO and direct the respondents to act in accordance with law. Our attention is invited to communication Dt. 18.9.2012 which was addressed to the Chief Executive Officer, Zilla Parishad, Chandrapur by the Commissioner, Family Welfare and Director, National Rural Health Mission, Mumbai for Maharashtra whereby it is informed that, as per order of the Additional Chief Secretary, Primary Health Department, NGO Yard has been selected as District Nodal Agency for Community Based Monitoring Project.

2. Our attention is also invited to the Evaluation report whereby after inspection of all four institutions - representation was made pursuant to inspection and discussion between the Committee members for joint evaluation to award contract to the Yard Sanstha, Warora. The grievance of the petitioner is that previous selection itself was held to be valid without giving opportunity of hearing to the Objectors.

3. Learned Counsel for the petitioner invited our attention to para 14 in the petition wherein it is stated that re-evaluated/re-assessed score sheet was submitted to respondent Nos. 1 and 2 for final result. Further inquiry was conducted and the District Health Organisation was asked for clarification as to the procedure that has been followed. Respondent No. 5 sent a clarificatory letter Dt. 20.3.2012 to respondent No. 1 reiterating that initial evaluation report was wrongly prepared and no proper procedure was followed. Thus, after completion and submitting of evaluation report, respondent No. 5 was informed by respondent No. 1 that selection of Yard NGO was done after following due procedure and the selection letter has been issued to the organisation of the Society. Thus, according to the petitioner, in making fresh inspection and preparing fresh monitoring and evaluation report, the State Monitoring Committee erred in ordering that the same was unnecessary and that it ought to have considered that the fresh monitoring and evaluation report was prepared after following due procedure and on consideration of the complaint made against the initial monitoring and evaluation report. It is submitted that the impugned order, therefore, is passed by the Authority concerned on the basis of its whims and pleasure and is unsustainable as respondent Nos. 1 and 2 acted arbitrarily and misused the authority without adhering to the principles of natural justice. Thus, considering the facts and circumstances of the case, once it was held that second evaluation is necessary and the Authority conducted second evaluation, in our view, the Authority is now estopped from going back and turn around and say that the second evaluation was unnecessary. That being so, the impugned communication is unsustainable in law and the Writ Petition deserves to be allowed. The petition is, thus, allowed in terms of prayer clause (I) of the petition. Rule is made absolute accordingly.