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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.655 OF 2023

Ascendas IT Park (Pune) Pvt. Ltd. .. Petitioner

v/s.

State of Maharashtra And Ors. .. Respondents

....

Mr. Bharat Raichandani, a/w. Mr. Prathamesh Gargate, i/b. UBR Legal Advocates, for the Petitioner.

Ms. Shruti D. Vyas, "B" Panel Counsel, for State.

Ms. Rebecca Gonsalves, for Respondent No.5.

....

**CORAM: G.S. KULKARNI &
JITENDRA JAIN, JJ.**

DATE : 12th OCTOBER, 2023

P.C:-

In our order dated 24th August 2023, referring to our order dated 6th June 2023, we recorded a statement of Ms. Vyas, "B" Panel Counsel for Respondent No.1/State of Maharashtra, made on instructions of the President, Incharge of the Maharashtra Sales Tax Tribunal, Mumbai (for short 'MSTT'). A compliance report on behalf of Respondent No.4 (Maharashtra Sales Tax Tribunal, Pune) is placed on record. On perusal of the report, we observed that the National Informatics Centre (NIC) had agreed to develop the MSTT's Website.

The arrangements in that regard, as set out in the report, were also noted by us. As also further steps which would be taken by the Tribunal also came to be recorded. We also observed that the Secretary, Department of Finance, needs to consider the said report for the purpose of budgetary approval, as the issue concerned access to justice, as observed by the Court in the previous order. We, accordingly, adjourned the proceedings, directing that an affidavit be placed on record of a responsible officer from the Finance Department addressing the issues as set out in the orders passed on the present proceedings and, more particularly, in respect of compliance report dated 4th August 2023, which was taken on record.

2. In pursuance of our order dated 24th August 2023, on behalf of the Finance Department of the State of Maharashtra, Shri Mandar Ashok Kelkar, Deputy Secretary, Finance, has placed on record an affidavit dated 18th September 2023. In such affidavit, setting out the background, it is inter alia stated that as soon as the proposal for the development of website from the President, MSTT is received to the Finance Department it would expedite the process of approval at the earliest. The relevant contents of the said affidavit in para 3 and 4 reads thus:

“3. I say that, vide communication dated 06.09.2023, addressed to the office of the Government Pleader, it is inter alia informed that no proposal for Financial approval related to Development of MSTT website has been received yet from the president of the MSTT to the

*Finance Department. As soon as the proposal is received, the Finance Department will expedite the process to get it approved at the earliest. A copy of communication dated 06.09.2023, is annexed hereto and marked as **Exhibit A**.*

4. It is submitted that, as stated in the letter dated 6th September 2023, as soon as the proposal relating to development of Website for MSTT is received from the president of the MSTT to the Finance Department, it will expedite the process of approval at the earliest.”

3. Today, Ms. Vyas has placed on record compliance report dated 11th October 2023 as received from the President MSTT, Mumbai, which inter alia records the further development on such issues and the proposed steps, which would be taken by the MSTT for procuring technical manpower and cloud infrastructure, for creation of the website. The relevant contents of the report of the President, MSTT dated 11th October 2023, reads thus:-

**“COMPLIANCE REPORT
ON BEHALF OF THE RESPONDENT NO. 4**

It is most humbly submitted that the President and Registrar of the Maharashtra Sales Tax Tribunal have taken serious note of the directions given by the Hon'ble High Court and the Respondent No.4 is making strenuous efforts to comply with the directions at the earliest. It is most humbly submitted that the Tribunal is utmost interested in complying with the directions given by Hon'ble High Court in Writ Petition No.655 of 2023 (A.S.) regarding development of separate website of the Tribunal.

The steps taken by this office from 24.08.2023 till this date are as follows:

- i. A meeting regarding further development in creation of website was held with Joint Commissioner, MAHAVIKAS and Project Management Consultant (PMC) i.e. E & Y in which, PMC was*

- directed to enlist required points regarding hosting infrastructure in cloud computing environment to enable MSTT to get it from NIC. These points are required for making a comprehensive proposal for administrative and financial approval for resources requirement in terms of hiring technical manpower resources and web hosting infrastructure in cloud computing environment.*
- ii. Accordingly, this office requested to NIC to furnish the same vide email dated 25.08.2023 (EXHIBIT-A). In response to this mail, NIC replied vide email dated 29.08.2023 (EXHIBIT-B) that NIC will carry out customization of eQJCourts application after receiving of resources from the Department and the deployment infrastructure will be required later, the details of same will be given subsequently.*
 - iii. The reply of NIC was conveyed to Joint Commissioner, MAHAVIKAS. Hg emphasized the need of getting these specifications to prepare comprehensive proposal for getting the approval from Project Implementation Committee (PIC). He has also suggested to arrange a meeting with NIC along with representatives of MAHAVIKAS, PMC and MSTT for getting required details from NIC.*
 - iv. Accordingly, the request has been made to NIC representative to arrange a meeting for getting aforesaid specifications at the earliest. NIC representative has communicated that meeting for the same will be arranged on 12.09.2023. In the said meeting, specifications have been received by MSTT regarding the web hosting infrastructure.*
 - v. Vide email dated 15.09.2023, PMC has submitted costing estimates for financial proposal which is to be submitted to the Government for its approval (EXHIBIT C).*
 - vi. A comprehensive proposal for administrative and financial approval (EXHIBIT D) for creation and maintenance of Maharashtra Sales Tax Tribunal (MSTT) website has already been prepared by MSTT and submitted to the Principal Secretary (Financial Reforms), Finance Department, Government of Maharashtra, Mantralaya, Mumbai on 27.09.2023 for approval. The said proposal was presented, discussed and approved in 76th Project Implementation Committee (PIC) meeting of Finance Department held on 10.10.2023.*
 - vii. Further necessary steps will be immediately taken for procuring technical manpower and cloud hosting infrastructure related work for creation of MSTT website.*
 - viii. MSTT is fully committed for complying with the directions of*

Hon'ble Bombay High Court."

4. Ms. Vyas has also placed on record a letter dated 11th October 2023 of the Deputy Secretary (Taxation) Finance Department of the Government of Maharashtra addressed to the Government Pleader, High Court stating that the Finance Department has received proposal for administrative and financial approval related to the development of MSTT's website from the President of the MSTT on 27th September 2023. It is stated that the said proposal is presented, discussed and approved in the 76th Project Implementation Committee of the Finance Department held on 10th October 2023. We take the said letter on record, which is marked "A1" for identification. The compliance report, as submitted by the President, MSTT dated 11th October 2023, is also taken on record and marked "A2" for identification. We note from the compliance report as submitted by the learned President of the MSTT as also the steps being taken by the Finance Department of the State of Maharashtra, that certainly there is a progress made in developing the MSTT's website.

5. However, we are of the opinion that steps in this regard are required to be expeditiously taken so that the website commences on or before 31st December 2023. It may not be out of place to refer to the order passed by the Supreme Court in the case of **Sarvesh Mathur vs. Registrar General, High Court of Punjab & Haryana** (Writ Petition (Criminal) 351 of 2023, in order dated 6th October 2023 in which the

Supreme Court has made the following observations in regard to a Tribunal:

“16. Above all, it must be noted that technology plays an essential role in securing access to courtrooms and, as a result, access to justice for citizens across the country. Lawyers and litigants using electronic gadgets to access files and legal materials cannot be asked to turn the clock back and only refer to paper books. In the march of technology, the Courts cannot remain tech averse. Placing fetters on hybrid hearings, like mandating an age criteria, requiring prior application, and frequent denial of access to virtual participants has the direct effect of discouraging lawyers and litigants to use technology. Not only does this affect the efficiency and access to courts, but it also sends out the misguided message that access to courts can be restricted at whim to those who seek justice.

17. The use of technology by the Bar and the Bench is no longer an option but a necessity. Members of the Bench, the Bar and the litigants must aid each other to create a technologically adept and friendly environment. The above directions must be implemented by all concerned stakeholders in letter and in spirit.

(emphasis supplied)”

6. In the present era, the courts and tribunals which cater to demands of the consumers of justice cannot be expected to function without the basic requirement of an official website to say the least. It also cannot take so long to create and make the website functional. As observed by the Supreme Court, the technology plays an essential role in securing access to court rooms and, as a result, access to justice for citizens across the country. In embracing technology, the tribunals in a progressive State like Maharashtra cannot remain primitive. Providing of a website would certainly enhance the efficiency in the working of the tribunal and make effective the access to justice.

7. Thus, in our opinion, it is of utmost necessity that the President of the MSTT on urgent basis forwards a proposal to the State Government in regard to making available video conferencing facilities in conducting Court proceedings, unless the same are already in place.

8. We may also observe that several Tribunals as constituted by the Central Government are already video conferencing (VC) compliant. The State Tribunals also need to provide such facilities, as ordered by the Supreme Court, which would also be an essential facet of access to justice.

9. At this stage, Ms. Vyas, has submitted that the NIC is likely to take longer time. It needs to be appreciated that there is nothing so herculean and / or impossible in creation of a Website and that too with the expertise and experience of the NIC has in dealing/creating of several websites of different courts, including of the High Courts in the country. It is therefore, difficult to accept the contention of Ms. Vyas that it may not be possible for the NIC to create the MSTT website by 31st December 2023, also more particularly, when these issues are already in the pipeline for quite some time.

10. We, accordingly, adjourn the present proceedings at the first instance to **28th November 2023** so that the further progress on all these aspects can be informed to us by the President, MSTT as also by the State Government.

(JITENDRA JAIN, J.)

(G.S. KULKARNI, J.)