

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.232 OF 2015

M/s.Oriental Structural Engineers Pvt.Ltd. ...Petitioner

V/s.

1.The Secretary (Roads) & Ors. ...Respondents

Mr.R.S.Apte, Senior Advocate i/b. Mr.Aniruddha A.Garge with
Mr.Anil Airi, for the Petitioner.

Mr.N.P. Pandit, AGP for the Respondent-State.

Mr.Mahesh Londhe i/b. M/s.Sanjay Udeshi & Co., for
Respondent No.6.

CORAM : MOHIT S. SHAH, C.J. AND
G.S.KULKARNI, J.

DATE : 17 March 2015

PC :

1. In this petition under Article 226 of the Constitution of India, the petitioner has challenged the letter dated 27 October 2014 by which the respondent-Authorities decided to open the price bid of M/s.Supreme Infrastructure India Ltd. - respondent No.6 in respect of the contract for four laning of Ahmednagar-Karmale Road (State Highway 141) (Total Length 8060 km).

2. The Public Works Department of the State Government invited bids in the above project. It appears that initially the bid of respondent No.6 was considered as non-responsive but subsequently the respondent-authorities decided to consider the bid of respondent No.6 as responsive and to open its price bid. The petitioner claiming to have offered the lowest bid amongst those who were initially considered as responsive, filed the present petition challenging the aforesaid decision of the respondents to consider the bid of respondent No.6 as responsive.

3. At the hearing today Mr.Pandit, learned AGP for respondent-authorities – respondent Nos.1 to 5 has placed on record a copy of the letter dated 12 March 2015 from the Executive Engineer, PWD, Ahmednagar to all the bidders stating that the bid process for the above mentioned work is cancelled as per the Tender Clause 2.16.

4. It would, thus, appear that since the bidding process is cancelled, nothing would survive in the petition.

5. Learned Counsel for the petitioner, however, submitted that the State has gone beyond the bidding process and, therefore, Tender Clause 2.16 would not apply.

6. Clause 2.16 of the Tender conditions reads as under:-

“2.16 Rejection of Bids.

2.16.1 Notwithstanding anything contained in the RFP, the Authority reserves the right to reject any Bid and to annul the Bidding Process and reject all Bids at any time without any liability or any obligation for such acceptance, rejection or annulment, and without assigning any reasons therefor. In the event that the Authority rejects or annuls all the Bids, it may, in its discretion, invite all eligible Bidders to submit fresh Bids hereunder.

2.16.2 The Authority reserves the right not to proceed with the Bidding Process at any time, without notice or liability, and to reject any Bid without assigning any reasons.”

Mr.Pandit, learned AGP submits that the bidding process is not yet completed as no contract has been awarded to any party and, therefore, the respondents-authorities are well within their rights in taking the decision to cancel the bidding process. Learned AGP further submits that in view of the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, the Government has decided to resort to the fresh bid process after acquisition of the land, in case the Government decides to acquire the land for the above project.

7. Having heard the learned Counsel for the parties, we find substance in the submissions made by the learned AGP that the bidding process is not completed as no contract has been awarded to any party and, therefore, the decision communicated to the bidders for cancellation of the bidding process falls within the ambit of Clause 2.16 of the Tender conditions.

8. In view of the, Writ Petition is dismissed as infructuous.

(CHIEF JUSTICE)

(G.S.KULKARNI, J.)