

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

WRIT PETITION NO. 1243 OF 2014

(Shri Rupraj s/ Shankar Gauri vs. The State of Maharashtra thr. its Secretary, Gram Vikas Department & Ors.)

Office Notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's orders

**CORAM : B.P. DHARMADHIKARI &
A.S. CHANDURKAR, JJ.
JANUARY 28, 2015.**

Heard Shri Prasad, learned counsel for the petitioner and Shri Deshpande, learned counsel for respondent Nos. 2 & 3.

The petitioner has challenged the rejection of his technical bid by Respondent No. 2 – Zilla Parishad. The tender in question was in respect of providing and fixing 11 KV Transformer.

The petitioner had participated in E-tender, however, by communication dated 28.02.2014, his bid was rejected on the ground that he had not completed the earlier works that were allotted to him. The petitioner is relying upon a completion certificate issued by Respondent No. 2 in respect of the very same works. It is, therefore, submitted that the impugned order debars him from future participation. Similarly, the impugned order resulting in civil consequences has been passed without grant of any opportunity of hearing.

Shri Deshpande, learned counsel, by relying upon para 5 of the affidavit in reply, has stated that the earlier works which had been carried out by the petitioner had a defect liability period of one year. The defects in the earlier work though were pointed out to the petitioner, he failed to remove said defects.

In reply, it is submitted by the learned counsel for the petitioner that the stipulation with regard to defect liability period was not part of the earlier contract.

Considering the nature of order as passed while rejecting the petitioner's bid, it is clear that same was required to be preceded by offering reasonable opportunity of hearing to the petitioner. The effect of the impugned order bars petitioner's participation in future tenders that could be issued by Respondent Nos. 2 & 3.

In view of the aforesaid, coupled with the fact that by virtue of interim orders the tender in question has not been opened, the following order will serve the interests of justice.

Respondent Nos. 2 & 3 are directed to reconsider the matter by granting an opportunity of hearing to the petitioner before taking a decision of accepting/ rejecting the petitioner's tender. This process of hearing be completed within a period of three weeks from today. For said purposes, the rejection of petitioner's bid is set aside.

In case the petitioner is found entitled for participation in aforesaid process, it would be open for respondent Nos. 2 & 3 to thereafter resume the tender process. In case the petitioner is not found eligible to participate in the said tender, Respondent Nos. 2 & 3 are entitled to proceed in accordance with law thereafter.

With the aforesaid observations and directions, writ petition is disposed of. However, there shall be no order as to costs.

JUDGE

JUDGE

**G.S.*