

VPH

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION No. 14082 OF 2016
WITH
CIVIL APPLICATION No. 3151 OF 2016

M/s. Maheshwari Agro Products	...	Petitioners
Vs.		
The Directorate of Primary Education, Pune & Ors.	...	Respondents
And		
M. P. Bhutada	...	Applicant in CAW (CAW No. 3151/2016)

Mr. R. M. Haridas a/w Shriram Choudhari, for the Petitioners.

Mr. A. B. Vagyani, Government Pleader a/w Vishal Thadani, AGP for
Respondent - State.

Mr. Prasad Dhakephalkar, Sr. Counsel a/w Mr. Nivit Srivastava, Nakul
Jain, Harsh Behary, Pratik Amin i/b Maniar Srivastava Associates, for
the Applicant in CAW. 3151/2016.

CORAM : V. M. KANADE, &
Ms. NUTAN D. SARDESSAI, JJ.

DATE : DECEMBER 22, 2016

PC.

1. Heard the learned counsel appearing for the Petitioners,
the learned Government Pleader appearing for the State, and the
learned senior counsel appearing for the intervenor. By this writ,
which is filed under Article 226 of the Constitution of India,
Petitioners are seeking an appropriate writ, order and direction for

cancellation of tender process bearing No. 66 dated 4th October, 2016 issued by Respondent No. 1. It is submitted that a tender notice was issued on 4.10.2016 for transportation of rice / wheat from FCI godown to school and for supply of other food grains, pulses, oil, spices and condiments in schools in rural area under Mid-Day meal scheme in Kolhapur district. It is submitted that the Petitioners had participated in the said process by purchasing Blank Tender Form on 6.10.2016. He thereafter deposited the earnest money with Respondent No. 1. One of the conditions of the tender was that the Petitioners should submit necessary documents as per clause 5.3.1 as mentioned in the said notice. It is a case of the Petitioners that due to technical error, they could not submit the same. He, therefore, informed Respondent No. 3 about his inability to submit the documents on account of a technical error. He was, however, informed that the said period could not be extended. Respondent No. 1 thereafter wrote a letter to Respondent No. 3 on 26.10.2016 to extend the date regarding the said tender. However, the time to submit a documents was not extended. It is submitted that as per Government Resolution dated 13.10.2015, a tender bid cannot be opened if there

are less than three bidders. It is submitted that in the present case there was only one bidder, and therefore, as per the said G. R., new process of tender has to be initiated.

2. On the other hand, the learned Government Pleader appearing for the State submitted that the Petitioners did not take any steps after 25th October, 2016 till 8th December, 2016. He submitted that present petition has been filed only on 9th December, 2016. It is submitted that the technical bid was opened on 8.11.2016 and the financial bid was opened 20.12.2016. He submitted that after the final decision was taken, and the contract was awarded to the successful bidder, the Petitioner has moved this Court seeking stay to the tender process. He submitted that on this ground alone, the petition is liable to be dismissed.

3. Mr. Dhakephalkar, Sr. Counsel appearing for the successful bidder submitted that the Petitioners are supplying wheat / rice to all the schools in Kolhapur districts and their appointment has been made on ad-hoc basis. It is submitted that the Petitioners will be benefited if the tender process is stayed or postponed. He submitted that for that reason, the Petitioners did not take any steps from 25th

October, 2016 till 8th December, 2016.

4. In our view, there is much substance in the submissions made by the learned Government Pleader and the learned senior counsel appearing for the intervenor. No explanation has been given by the Petitioners as to why no steps have been taken by them from 25th October, 2016 till 8th December, 2016. Though the petition was filed on 9th December, 2016, no application was made for an ad-interim relief till today. On this ground, we decline to interfere with the tender process. It is submitted that tender bid was for the transportation of rice / wheat to all the schools in Kolhapur district under the mid-day meal scheme, and any further delay in awarding the tender will further obstruct the process of providing the mid-day meal to the school children. We are, therefore, not inclined to interfere with the tender process. Writ petition is, therefore, dismissed.

5. In view of dismissal of the writ petition, Civil Application No. 3151 of 2016 filed therein does not survive and is accordingly disposed of.

Sd/-

[Ms. NUTAN D. SARDESSAI, J.]

Sd/-

[V. M. KANADE, J.]