

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO. 947 OF 2016

Altaf Khan s/o Jamsheed Khan

-VS-

Chief Officer, Municipal Council, Shegaon, Dist. Buldhana and others

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

Court's or Judge's Orders.

Mr. S.V.Sohoni, counsel for the petitioner.
Mr. D.M.Kale, counsel for the respondents.

CORAM : SMT. VASANTI A. NAIK &
MRS. SWAPNA JOSHI, JJ.

DATE : 29.06.2016.

By this writ petition, the petitioner seeks a declaration that the tender notice, dated 03/02/2016 issued by the respondent-Municipal Council, is illegal. The petitioner has sought a direction against the respondent-Municipal Council to accept the bid of the petitioner as per the tender notice, dated 18/01/2016.

By a public auction notice published by the respondent-Municipal Council on 30/11/2015, bids were called for executing the work of demolition of two buildings/godowns. Since nobody participated in the public auction, a second tender notice was issued on 18/01/2016 for allotment of the work of demolition of the said buildings/godowns. Only four tenderers participated in the tender, the petitioner being one of them. Though the bid of the petitioner was the highest i.e. Rs.2,75,786/-, the respondent-Municipal Council, for the reasons best known to it, did not allot the work to the petitioner and instead issued a third tender notice, dated 03/02/2016. The action on the part of the respondent-Municipal Council, of issuance of the third tender notice is challenged by the petitioner in the instant petition. The petitioner has sought a direction against the Municipal Council to allot the work of demolition of the buildings/godowns to the petitioner in pursuance of the second tender notice.

Shri D.M.Kale, the learned counsel for the respondent-Municipal Council, states by referring to the affidavit-in-reply that the Municipal Council thought that some more amount could have been fetched for execution of the work of demolition of buildings/godowns and hence a third tender was floated on 03/02/2016. It is stated that in view of the interim order passed in a civil suit filed by the tenants in the godown, the Municipal Council is restrained from demolishing the buildings/godowns. It is stated that in view of the injunction order, the work cannot be allotted to the petitioner.

We find much force in the submission made on behalf of the petitioner that the respondent-Municipal Council could not have issued the third tender notice when four bids were received in pursuance of the second tender notice and the petitioner had offered the highest bid. On an assumption that more amount could be fetched, the Municipal Council cannot issue a third tender notice, more so, when in the second tender the upset price was fixed at Rs.70,000/- and the petitioner had offered the bid of Rs.2,75,786/-. Be that as it may, it would not be possible to grant the relief sought by the petitioner in this petition, as in view of the injunction operating against the Municipal Council in the civil suit, it would not be possible to direct the Municipal Council to allot the work of demolition of buildings/godowns to the petitioner.

Since the relief sought by the petitioner cannot be granted, in view of the operation of the injunction in the suit filed by the shopkeepers in the buildings/godowns, the writ petition is disposed of with no order as to costs.

JUDGE

JUDGE