

IN THE COURT OF JUDICATURE AT BOMBAY  
NAGPUR BENCH, NAGPUR

**WRIT PETITION NO. 3643/2016**

(Shri Shantikumar s/o Gendalal Patni vs. State of Maharashtra and others )

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

Court's or Judge's order

Mr. M.Anilkumar, Advocate for the petitioner  
Ms. N.P. Mehta, Assistant Government Pleader  
for Respondent No.1  
Respondent No. 2 deleted.  
Mr. D.M. Kakani, Advocate for Respondent No.3

CORAM : B.R. GAVAI &  
V.M. DESHPANDE, JJ  
DATED : 21<sup>st</sup> September, 2016

Heard.

It is the contention of the petitioner that Clause No. 3.19 of the Tender Notice which is issued by the respondent no.3, leads to monopoly and denial of participation to the bidders at large. Learned counsel for the petitioner submits that such a condition imposes restrictions on the right of a party like the petitioner, to participate in the tender process. He submitted that unless the experience and that too of working with the Government, semi-Government, local bodies is available, the party cannot participate in the bids.

For appreciating the contention, it will be appropriate to refer to condition No.3.19 of the Tender Notice.

The tender notice requires a prior experience of working for last three years of the specifications stated therein with

Government, semi-Government, local bodies like Municipal Corporation/Council/MIDC/ MJP /CIDCO etc. It is always for the person inviting tender to specify the conditions which shall describe the eligibility. Unless it is found that the condition is palpably arbitrary or incorporated only to suit a particular party, it will not be permissible for this Court to interfere with the same.

Perusal of the condition would reveal that the experience of working with various Government or semi-Government authority or local bodies is a precondition for a participant to bid in the tender. In the present case, all four persons who had submitted their bids, were possessing the requisite certificate, as required under Clause 3.19 of the Tender Notice.

It could thus be seen that the argument advanced is not only legally erroneous but factually erroneous. All the four persons have participated in the bids possessing the required qualification.

Apart from that, the petitioner who had failed to attend the pre-bid conference, is not entitled to invoke the extraordinary jurisdiction of this Court under Article 226 of the Constitution. Petition is found to be without merit and, as such, dismissed.

**JUDGE**

**JUDGE**

C E R T I F I C A T E

“ I certify that this Judgment/Order uploaded is a true and correct copy of original signed Judgment/Order.”

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