

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

CIVIL APPLICATION [O] NO.1487 OF 2016

IN

MISC. CIVIL APPLICATION ST. NO.16580 OF 2010 [FOR REVIEW]

IN

WRIT PETITION NO.4273 OF 2016 [D]

[Afcons Infrastructure Limited .vs. M/s. GYT-TPL Joint Venture and one]

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

Court's or Judge's orders

Shri A.C. Dharmadhikari, counsel for the applicant,
Shri M.G. Bhangde, Senior Counsel with Shri M. Anilkumar, counsel for
respondent no.1,
Shri Kaustubh Deogade, counsel for respondent no.2.

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

DATED : AUGUST 11, 2016.

By this civil application, the applicant - Afcons Infrastructure Limited, seeks leave to file a review application seeking a review of the judgment, dated 28.7.2016.

According to the applicant, the financial bids of the applicant and certain other companies that were held to be eligible were opened and since the applicant is the lowest bidder, the judgment, dated 28.7.2016 has affected the applicant. According to the applicant, it was necessary for the petitioner to have joined the applicant, being the lowest bidder, as a party respondent to the writ petition.

We are not inclined to grant leave to the applicant to seek a review of the judgment, dated 28.7.2016. A categorical statement was made by the learned senior counsel for Nagpur Metro Rail Corporation Limited on the date of hearing that is on 28.7.2016 that though the financial bids were opened, the bids were not finalised. Also, in Writ Petition No.4273 of 2016 that was filed by the joint venture company, no relief other than a

declaration that the action on the part of the Nagpur Metro Rail Corporation Limited in disqualifying the technical bid of the petitioner and a direction to the Corporation to open the financial bid of the petitioner was sought. In the judgment, dated 28.7.2016, we had only considered, whether the technical bid of the petitioner-joint venture company was rightly rejected or not. We had not touched any other aspects of the matter and hence there was no need for the joinder of any other respondent in the said writ petition, as a clear statement was made more than once on behalf of the respondent-Nagpur Metro Rail Corporation Limited that though the financial bids are opened, the bids are not finalised. If the bids were not finalised and one of the bidders that was held ineligible in the technical bid, had filed the petition seeking a declaration that the technical bid was wrongly rejected and his financial bid should be considered, we do not find that the lowest bidder was a necessary party. When the bids are not finalised, it would not be necessary for the disqualified bidder to join all other eligible bidders in the petition. Even the lowest bidder need not be joined as a party in such a petition. We, therefore, do not find that the claim of the applicant for grant of leave to seek a review of the judgment is proper.

In the circumstances of the case, we reject the prayer made by the applicant. The application is disposed of accordingly.

JUDGE

JUDGE

CERTIFICATE

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

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