

IN THE COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

WRIT PETITION NO. 5923/2016

(Premier Plant Services & Engineers Pvt. Ltd. vs. Maharashtra State Power Generation Co. Ltd.
and another)

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

Court's or Judge's order

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Mr.H.D. Marathe, Advocate for the petitioner

CORAM : B.R. GAVAI &
V.M. DESHPANDE, JJ.
DATED : 10th October, 2016.

Heard.

The petitioner has approached this Court, contending therein that the term of the tender notice which provides that experience of only working with MSPGCL/NTPC/ SEB's/ Central/State Government organization/Public Sector undertaking, would be taken into consideration for determining the eligibility of the bidder.

It is the contention of the learned counsel for the petitioner that such a clause is arbitrary and excludes participation of a bidder so as to have an experience working with private firm.

The Apex Court in the case of M.Lachia Setty & Sons vs. The Coffee Board, Bangalore reported in AIR 1981 SC 162 has held that it is an assumed right as to what should be the terms and conditions of the tender. No doubt that, when the

tender is being issued by the State, the State would be required to conform to the constitutional mandate and its action being not arbitrary, unreasonable or *mala fide*.

Taking into consideration the experience of only the State and its subsidiaries cannot be said to be a condition which is arbitrary, unreasonable or irrational. In any case, the said condition is made applicable to one and all equally.

In that view of the matter, no case is made out for interference. Rejected.

JUDGE

JUDGE

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C E R T I F I C A T E

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