

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

WRIT PETITION NO. 6953 OF 2015

(M/s. Chiddarwar Company Pvt. Ltd. thr. its Director Shri Sanjay Chiddarwar vs. The State of Maharashtra thr. its Secretary, Public Works Department & Ors.)

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

Court's or Judge's orders.

**CORAM : B.P. DHARMADHIKARI &
P.N. DESHMUKH, JJ.
APRIL 05, 2016.**

Heard Shri S.D. Harode, learned counsel for the petitioner, Mrs. B.H. Dangre, learned GP for respondent Nos. 1 to 4 and Shri A.S. Jaiswal, learned Senior Advocate with Shri M.P. Kariya, learned counsel for respondent No. 5.

The petitioner – a Contractor, who submitted a tender in response to the tender notice dated 19.09.2015 with an undertaking that he has the required machinery i.e. Automatic computer matching plant, questions the amendment to the tender conditions effected on 29.10.2015 on the ground that the change has been brought out only to accommodate Respondent No. 5, who possesses that machine.

Shri Harode, learned counsel submits that the machine which has been introduced for the first time by amendment dated 29.10.2015 was due to policy decision taken in the year 2014 and in that event in original advertisement itself, that machine could have been mentioned. In advertisement, in stead of mentioning that machine, the earlier version which the petitioner possesses was stipulated.

As nobody at that time was having new machine,

the petitioner and others submitted an undertaking on which the respondents are placing reliance. It is contended that after realising that the new machine has been introduced to favour Respondent No. 5, the present petition has been filed.

The facts and arguments noted supra speak for themselves. The petitioner has given an undertaking to use new machine and thereafter is trying to assail change in tender condition on the ground that at that juncture, he was not aware that a contractor, who can fulfill the altered condition was available.

In any case, a change has been brought into effect on 29.10.2015. The original tender of the petitioner was uploaded on 26.10.2015 and with altered conditions, it has been uploaded on 02.12.2015. The petitioner could have refused to furnish undertaking and approached this Court at that juncture only.

The allegations of malafides is based only upon the fact that Respondent No. 5 has that machine. The policy decision of Government to execute the works by using that machine was taken way back in the year 2014, is not in dispute. Facts to show that modification is tailor made are lacking. In this situation, mere fact that Respondent No. 5 has that machine is not sufficient to infer any malafides.

We find that no case is made out warranting any intervention in writ jurisdiction. Writ Petition is dismissed. However, there shall be no order as to costs.

JUDGE

JUDGE