

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 8023 OF 2017

Disha Sushikshit Berojgari Sahakari Sanstha
through its proprietor
Syed Rafeeuddin S/o Hafeezuddin .. Petitioner

VS.

The State of Maharashtra and others .. Respondents

Mr. J.M. Murkute, Advocate for the petitioner
Mr. D.R. Kale, A.G.P for the respondent/State
Smt. Ranjana D. Reddy, Advocate for respondent no.2

**CORAM : S.C. DHARMADHIKARI &
MANGESH S. PATIL, JJ.
DATE : 20-06-2017**

ORAL ORDER :

1. Not on Board. Mentioned. Taken on Board.
2. Petitioner applied for award of a contract to arrange for two wheeler parking at the Central bus stop and the CIDCO Bus stand of the Maharashtra State Road Transport Corporation, Aurangabad Division, Aurangabad. Pursuant to the tender notice, the petitioner forwarded the tender but it was held to be ineligible. The reasons for declaring the petitioner's bid as ineligible or non-compliant, is that the petitioner claims to be a society assisting unemployed. However, beyond registering

itself as a co-operative society, the petitioner had not submitted any proof that it was registered as the service provider and to those who are unemployed. Secondly, when petitioner forwarded its bid, it did not accompany any authorization so as to enable the respondents to decide as to whether the signature is of the person authorized to place his signature on the bid as there is no resolution or letter to that effect from the general body or managing committee and the petitioner who has placed the rubber stamp that he is chairman of the society, is not enough.

3. After hearing both sides, we do not find any substance in the argument of the petitioner's Advocate that the petitioner has obtained registration of the co-operative society. Secondly, the terms and conditions do not envisage obtaining of registration by the petitioner association but the individual unemployed beneficiaries. The petitioner is society and can therefore never fulfill these terms. Further argument is that the petitioner was duly authorized to represent the society and in that regard reliance is placed on the terms and conditions and the communication from the petitioner in that behalf.

4. After perusing the terms and conditions and the reasons assigned for declaring the petitioner as not eligible, we do not think that in writ jurisdiction we should interfere. The discretion has not been

exercised arbitrarily or capriciously. There are no malafides either. If the petitioner claims to be rendering assistance to the unemployed, then, the list of such beneficiaries' members and registered unemployed should have been forwarded. That would enable the authorities to satisfy themselves about the status of the petitioner and whether it indeed falls in the description as per the tender. The benefit that such societies or entities derive, is that because they represent unemployed and particularly unemployed youth, they are exempted from paying the earnest money. If there is an exemption from payment of earnest money, then, the condition imposed for such exemption could not have been ignored. The petitioner never complained about existence of such condition nor its interpretation till date. Hence, the decision to declare the petitioner ineligible on this count cannot be interfered with.

5. Equally, mere placing of a rubber stamp and describing oneself as a chairman was not enough. The petitioner society should have passed a resolution and empowered and authorized the petitioner to forward and sign the bid on behalf of the petitioner. It should also be backed by virtue of his designation as chairman by proper resolution, documents and authorization.

6. In the circumstances, we do not find any perversity or error of law apparent on the face of record in the condition imposed by the

statutory authorities. The terms and conditions are rightly interpreted so as to discourage those who are not properly authorized or are unauthorized. We do not see any reason to interfere with the interpretation of the terms of the tender by the respondents. That is not arbitrary either. In the circumstances, the Writ Petition has no merit and is dismissed.

[MANGESH S. PATIL]
JUDGE

[S.C. DHARMADHIKARI]
JUDGE

arp/