

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD**

**WRIT PETITION NO. 9631 OF 2017**

Pushpa Pulses Through its  
Proprietor R. O. Agarwal .. Petitioner

**Versus**

The State of Maharashtra and others .. Respondents

Shri S. B. Talekar with Shri R. S. Pawar, Advocates for the  
Petitioner.

Shri A. R. Kale, A.G.P. for Respondent Nos. 1 to 5.

**CORAM : S. C. DHARMADHIKARI AND  
MANGESH S. PATIL, JJ.**

**DATE : 28TH JULY, 2017.**

**PER COURT :**

. This matter was moved yesterday on account of urgency. It was submitted by Shri Talekar that during the course of bidding and when a final decision is to be taken so as to award the contract a corrigendum has been issued, which creates confusion. Our attention been invited to the terms and conditions of the tender document/notice governing tenders for Washim district., page 48 of the paper book and particularly stipulation at page 65. It was also submitted that condition No. 5.1(ii) at page 67 was part of the terms and conditions of the notice inviting tenders pursuant to which all the bidders have participated.

2. Now, mid-way, the corrigendum at page No. 112 of the paper book has been issued and apart from others, Clause 5.1 (ii) at internal page 20 of MDS is now sought to be modified and the modification is a part of the illustration set out in the corrigendum. The portion to right replaces or modifies the original clause 5.1(ii). Therefore, mandate of Article 14 of the Constitution is not adhered to is the argument of Mr. Talekar.

3. Mr. Talekar, submits that, petitioner complied with eligibility criteria as it was originally specified. The petitioner has participated in the bidding process of Washim, Nandurbar and Dhule districts. It is only in the light of corrigendum that the apprehension of exclusion from the process is expressed and that is how Court's interference was prayed.

4. We had requested the learned Assistant Government Pleader to take instructions and particularly from the tendering authority as to whether illustration and the understanding as emerged from the same on the right hand side in the column at page 115 of the paper book would govern the process or otherwise.

5. The matter was placed first on the supplementary board today on account of the urgency. The learned A. G. P. on

instructions from the Superintendent Primary Education, Directorate of Primary Education, Maharashtra State, Pune Shri Suresh Waghmode states that, the petitioner need not have any apprehension and the process would be continued and would be completed strictly in accordance with the Clause No. 5.1(ii), as originally appearing in MDS with the illustration and the portion from the illustration and which allegedly created the confusion at page 115 on the right hand side would not be taken into consideration for the on going process.

6. This clarification made on instructions, is accepted as an undertaking to this Court. As such, nothing survives in the writ petition and writ petition stands disposed of.

7. Needless to clarify that the petitioner's and others would be taken as eligible on the basis of this and other terms and conditions mentioned in the MDS. This clarification would be applied to all the participating bidders.

**[MANGESH S. PATIL, J.]**

**[S. C. DHARMADHIKARI, J.]**