

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

901 WRIT PETITION NO. 8952 OF 2016

M/S SHAKUNTALA ENTERPRISES THROUGH ITS PROPRIETOR  
KANTILAL DEVIDAS DUSANE

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

----

Shri. Vinod P. Patil, Advocate, for petitioner.

Shri. A.R. Kale, Assistant Government Pleader,  
for respondent Nos.1 to 4.

Shri. S.K. Kadam, Advocate, for respondent No.5.

----

**Coram: T.V. NALAWADE &  
SANGITRAO S. PATIL, JJ.**

**Date: 9 February 2017**

**ORDER:**

1) The petition is filed to challenge the allotment of the work by respondent No.4 in favour of respondent No.5 and also for direction that the work be allotted to the petitioner. Both the sides are heard.

2) It appears that in response to the tender notice published, the petitioner filled the tender on-line. Similarly, respondent No.5

had filled the tender. The value of the work was Rs.43.94 lakh. The applicant was expected to supply information in form of the documents as per Envelope No.1 which was also published online. There were two bids. One was technical bid and the other was commercial bid. In technical bid, applicant was expected to supply information about 18 items. It was made clear that only after complying with the conditions given in those items with regard to technical bid, Envelope No.2 with regard to commercial bid will be opened by respondent No.4. It appears that there were some discrepancies and non compliance of some items with regard to the technical bid and due to that the commercial bid of the present petitioner was not opened. It is the grievance of the petitioner that due to the items which are mentioned, his tender could not have been rejected and his commercial bid ought to have been opened.

3) The record showing the necessary compliance is produced by both the sides. For non

compliance of item Nos.7,15 and 17, the technical bid of the present petitioner is rejected and those items are as under:-

"7. Scanned from Original Copy of Details of work tendered for & in hand of Electrical Contractor or any one firm of Joint venture or Tenderer. (Information to be given in Statement I).

15. Scanned from Original Copy of Registration of professional tax (PTEC and PTRC) and clearance certificates.

17. Scanned from Original Copy of PF Registration & last three months paid challans."

4) This Court has no hesitation to hold that at least item Nos.15 and 17 were important as they were to show as to whether the applicant had the capacity to do the work. This was because it was necessary to have necessary number of the labour force, employees for doing the work in view of the nature of the work which was to be done by the applicant. Admittedly, the applicant had not registered its concern under provisions

of the Provident Fund Act and he had produced no record to show that for last three months he had made payment of contribution towards provident fund of his employees. This single reason was sufficient for respondent No.4 to reject the technical bid. On the other hand, respondent No.5 did comply those conditions. So his commercial bid was opened. Learned counsel for the petitioner submitted that there was one more similar applicant who had filed tender but when he was not complying with condition Nos.15 and 17, his commercial bid was opened. Though from the record it can be said that such commercial bid was opened, the fact remains that the said applicant did not get the work order. In view of these circumstances it is not necessary to go into details of that contention. There is no scope for interference. The petition stands dismissed.

Sd/-

(SANGITRAO S. PATIL, J.)

Sd/-

(T.V. NALWADE, J.)

rs1