

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3580 OF 2017

Sunil Shantaram Redij	...	Petitioner
Vs.		
Chiplun Municipal Council & Ors.	...	Respondents

Mr. Sachin S. Punde for the Petitioner.

Mr. Harshad Bhadbhade for Respondent No.1-Municipal Council.

Mr. P.J. Thorat, i/by Mr. S.K. Jain, for Respondent No.2.

Ms. R.A. Salunkhe, A.G.P., for Respondent Nos.3 to 5-State.

CORAM : NARESH H. PATIL &
DR. SHALINI PHANSALKAR-JOSHI, J.J.

DATE : 18TH APRIL 2017.

P.C. :

1. Heard learned counsels for the respective parties.
2. The Petitioner challenges awarding of contract by Respondent No.1-Municipal Council in favour of Respondent No.2. Admittedly, the Petitioner had participated in the tender process. His 'Technical Bid' came to be rejected. The tender was floated by Respondent No.1-Municipal Council for supplying, fitting and maintaining the Street Lights (LED Lamps) in Chiplun Taluka, District Ratnagiri.

3. The Petitioner's contention is that, the General Body of Respondent No.1-Municipal Council had passed a resolution on 19th August 2016 for recalling the tender process for the said purpose. However, in the next meeting of the General Body of the Respondent-Municipal Council, held on 9th March 2017, it was decided to accept the offer of Respondent No.2 for supplying the tender material by accepting 6% reduction in the rates quoted in the 'Technical Bid'.

4. One of the considerations before the General Body meeting was that, the amount which was disbursed by the State Government for fitting the LED Lamps would get lapsed, if not utilized by the end of March 2017. The State Government had disbursed the funds to the tune of Rs.3,21,17,458/-. In this view of the matter, the General Body of the Respondent-Municipal Council had reconsidered the issue and decided to award the contract to Respondent No.2.

5. The learned counsel appearing for the Petitioner submits that the Respondent-Municipal Council had flouted its own Rules in respect of allotment of tender. The Respondent-Municipal Council, in its second General Body Meeting, was not empowered to reverse the earlier decision taken by the General Body in its meeting held on 19th August 2016. Petitioner raises issue concerning reduction in the rates quoted

by Respondent No.2 in his 'Technical Bid'.

6. The learned counsel appearing for the Respondent-Municipal Council submitted the affidavit-in-reply and the relevant Rules, on behalf of the Municipal Council, before this Court. It was submitted by the counsel for the Respondent-Municipal Council that, the Petitioner had filed a complaint before Respondent No.4 on 16th August 2016 regarding the tender process. The General Body of the Respondent-Municipal Council had taken a decision in the facts of the case and in the interest of public at large.

7. The learned counsel appearing for Respondent No.2-Contractor submits that, 1/4th of the contract work is over. 500 LED Lamps have already been fitted. On behalf of Respondent No.2, locus of the Petitioner was questioned to file the Writ Petition in respect of the contractual matters.

8. We have perused the record. On the prima facie consideration, it reveals from the record that, the General Body in its meeting, held on 9th March 2017, had considered the issue of disbursement of funds by the State Government and the fact that the funds earmarked for the said purpose were to be utilized by the end of March 2017.

9. The General Body of the Respondent-Municipal Council had further considered that, after negotiation, Respondent No.2-Contractor had offered a reduction of 6% in the rates quoted by him. Taking into consideration all these factors, the General Body of the Respondent-Municipal Council had decided to award the contract to Respondent No.2.

10. It is informed to the Court that 1/4th of the contract work is already over. 500 LED lamps were fitted by Respondent No.2-Contractor. In these peculiar facts and circumstances of the case, we are not inclined to interfere in the matter. However, the Chief Officer of the Respondent-Municipal Council should be vigilant in adhering to the required mandatory procedure while completing the tender process and awarding contracts in future.

11. Petition is rejected.

12. Registry to forward a copy of this order to the Respondent-Municipal Council and the Respondent-State.

[DR. SHALINI PHANSALKAR-JOSHI, J.] [NARESH H. PATIL, J.]