

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Writ Petition (ST) NO. 36027 OF 2017

The New Grain Dealers Services Resources
Co-operative Society Ltd.

...Petitioner

Versus

The State Of Maharashtra
And Ors.

...Respondents

....

Mr. L.S. Deshmukh, Advocate for the Petitioner.

Mr. A.I. Patel, AGP, for Respondent – State.

....

**CORAM : R.M. BORDE &
R. G. KETKAR, JJ.**

DATE : 09th JANUARY, 2018

P.C.

The petitioner is objecting the acceptance of tender submitted by respondent No.3. The tender notice relates to supply of food grain and was published on 1.8.2017.

2. The petitioner contends that respondent No.3 has been declared as L-1 though it does not fulfill the criteria prescribed in paragraph-3.1 of the tender. Paragraph-3.1 of the tender prescribes that the tender offerer shall have the minimum experience of transportation of goods for a period of one year.

3. The petitioner relying upon the registration certificate secured by respondent No.3 in the year 2017 contend that *prima facie* respondent No.3 does not possess the required experience and is not eligible to participate in the tender process. It is pointed out that respondent No.3 has furnished a certificate in respect of financial capability and the experience issued by the Chartered Accountant as required under the tender notice. Apart from this it is contended that respondent No.3 has got its company registered in the year 2006. The Chartered Accountant has certified that respondent No.3 is carrying on the business of transportation since 2006. The respondent has also produced the evidence of possession of vehicles for carrying on the business of transportation of goods.

4. In the circumstances it *prima facie* appears that respondent No.3 fulfills the eligibility condition. Apart from this it must be noted that the financial bid submitted by respondent No.3 is competitive whereas the financial bid furnished by the petitioner would put additional financial burden on the State exchequer.

5. In view of the law laid down by the Hon'ble Supreme Court in the matter of ***Raunaq International Ltd. v. I.V.R. Construction Ltd and others***, reported in (1999) 1 SCC 492, since the tender offer

furnished by respondent No.3 is more competitive and does not put loss to the public exchequer and since no public interest is jeopardized, there is no need to cause interference in the matter at the instance of the petitioner.

6. The Writ Petition is devoid of substance and stand rejected.

(R. G. KETKAR, J.)

(R.M. BORDE, J.)

Deshmane (PS)