

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

Writ Petition No. 3647 of 2017

(Mayur Packaging Works...Vs....State of Maharashtra & Anr.)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders or directions
and Registrar's orders

Court's or Judge's orders.

Mr. R.M. Sharma, Advocate for petitioner.
Mrs.K.S.Joshi, Addl. GP for respondent nos.1 & 2.

**CORAM : B.P.DHARMADHIKARI &
R.B.DEO, JJ.**

DATE : 18.07.2017.

1. Heard. Petitioner a supplier of food articles and tenderer in process floated by respondents challenges two condition in NIT. First condition is contained in clause 5.2.2. That clause reads as under:

"In case of failure to submit samples and receipt of amount as mentioned above, the bid uploaded by Bidder will be treated as non-responsive and will not be opened. If the samples submitted by Bidder fails in Laboratory testing, the bid submitted by Bidder will be rejected as non responsive. Even if a single sample fails / does not confirm to the Specification of the department

the bid submitted by the Bidder will be rejected as non responsive."

Part which is assailed is underline by us.

2. The other challenge is to modification of clause-B in tender condition no. 5.2.4. It reads as under:

"Bidder should submit samples along with tender as per follow.

A) 2 nos of each items with more than 500 gms quantity of samples duly sealed.

B) 2 pcs of each items packed in transparent poly bag duly labeled."

The Corrigendum is,

"(c)if bidder submits any branded item then packet showing name of brand must be removed and item must be given in plane poly bag;

(d) Bidder must not mention firm name on any poly bag. Bidders name will be only on the box containing this poly bags."

3. After hearing respective counsel, we find that the respondents in their wisdom

find it not safe to deal with any supplier whose specimen even in respect of single food item is found below standard. The approach can not be treated as arbitrary and condition therefore, is not irrational.

4. By substituting clause B Supra respondents have ascertained that while undertaking test on the samples, the authorities are not influenced by brand name or any other identification mark upon it. Examination is carried in neutral atmosphere and therefore, impartial or real results come before the respondents. They have explained this logic on affidavit. Submission is, it introduces more transparency in the matter.

The efforts definitely introduce transparency as in absence of any name, the tests are carried neutrally and impartially by experts.

5. Thus both conditions modification in NIT can not be viewed as arbitrary. The conditions definitely have nexus with the

object sought to be achieved and bearing on the process.

We, therefore, find challenge misconceived.

6. Last contention of petitioner is though tender should have been finalized before January, 2017, respondents have been taking time and extensions have been given to the earlier contractor. We find that in present matter, this Court has granted interim order and it is in force since last about 9 days. In absence of that order perhaps the respondent could have finalized the tender by today.

7. In this situation, we direct respondents to complete the tender process as per law in next two weeks.

Accordingly, with these directions, we dispose of writ petition. No cost.

JUDGE

JUDGE

Belkhede, PA