

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

PUBLIC INTEREST LITIGATION NO.39 OF 2018

Asadulla Khan Maheboob Khan,
Age-49 years, Occu:Labour,
R/o-Shivaji Nagar, Kinwat,
Tq-Kinwat, Dist-Nanded,
Mobile No. 9822447203
Adhar No. 298637561204

...PETITIONER

VERSUS

Municipal Council, Kinwat,
Tq-Kinwat, Dist-Nanded,
Through its Chief Officer.

...RESPONDENT

...

Mr.L.V. Sangit Advocate for Petitioner.

...

**CORAM: S.S. SHINDE AND
S.M. GAVHANE, JJ.**

DATE : 20TH MARCH, 2018

ORDER :

1. This Public Interest Litigation is filed
with following prayer:

"A) For a writ of certiorari Order or direction in the nature of certiorari calling for the record and proceedings of E-Tender published by respondent on 08.03.2018 along with terms and conditions (Exhibit 'B') and after examining the legality, validity and propriety thereof, the terms and conditions Sr. No.50 to 53 be quashed and set aside."

2. Learned counsel appearing for the Petitioner submits that some of the terms and conditions in the E-Tender Process are harsh and not required for the fair competition. The Petitioner is aggrieved in respect of the terms and conditions from Sr. Nos. 50 to 53. It is submitted that, Condition No.50 is, the tenderer must be having turn over of Rs.2 Crores per year. Condition No.51 is in respect of having License of Labourer issued by the competent authority/office. Condition No.52 is in respect of obtaining the Ability Certificate from Bank for amount of Rs.15 Lakhs. Condition No.53 is in respect of

Registration of Ape Auto in the name of tenderer. The tenderer is also required to supply ten Apes and three Tractors.

3. Learned counsel further submits that, the above said terms and conditions are very harsh, unnecessary, not required, not provided under any Government Resolution, Rules framed by the Government. It is submitted that the above said terms and conditions are without any foundation, baseless and therefore the same requires to be cancelled and set aside. Learned counsel further submits that the tenderer may take Ape as well as Tractor on rent from third person and it is not necessary that the same shall be registered in his name. The condition of Annual Turn Over of Rs.2 Crores is also very harsh, unnecessary, and because of the said condition most of the tenderer may not participate in the process. Learned counsel submits that for earlier tender process there were no such harsh terms and conditions. He,

therefore, submits that the Public Interest Litigation deserves consideration.

4. We have considered the submissions of learned counsel appearing for the Petitioner, perused the grounds taken in the Petition. The conditions stipulated in the E-Tender process are keeping in view the provisions of Solid Waste Management Rules, 2016. Therefore the conditions which are stipulated in the E-Tender process initiated by Respondent Municipal Council for the purpose of collection, segregation, storage, transportation, processing and disposal of Municipal Solid Waste of Kinwat City Municipal Council for the period of three years, cannot be said to be harsh or onerous. On the contrary, those conditions will ensure strict observance of the purpose for which the said E-Tender Process has been initiated. There is no any specific reason which has been stated in the Petition on the basis of research made by the Petitioner so as

to cause interference in the E-Tender Process initiated by the Respondent.

5. For the reasons afore stated, we are of the considered view that the Public Interest Litigation is devoid of any merits. Accordingly, the Public Interest Litigation stands dismissed.

[S.M. GAVHANE, J.]

asb/MAR18

[S.S. SHINDE, J.]