

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 6384 OF 2016

Jayant S/o. Digambarrao Deshmukh,
Age 46 years, Occu. Service,
R/o. At Bajaj Nagar, MIDC, Waluj,
Aurangabad, District Aurangabad.

VERSUS

1. The Regional Officer,
Maharashtra Industrial Development
Corporation, Railway Station Road,
Aurangabad.
2. The Regional Manager,
Maharashtra Industrial Development
Corporation, Railway Station Road,
Aurangabad.
3. The Maharashtra Industrial Development
Corporation, Through : CEO
Having its office at "UdyogSarathi",
M.I.D.C. Marol Industrial Estate,
Mahakali Caves Road, Andheri (E),
Mumbai - 43.
4. The State of Maharashtra
Through :The Secretary,
Industry Department
Mantralaya, Mumbai-32.
5. Kalpana Ashok Gawande,
R/o. 4/5, Near Ideal English School,
Gajanan Medical and General Stores,
Bajajnagar, Waluj, MIDC, Aurangabad.

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Advocate for Petitioner : Mr.P.V.Mandlik, Senior Counsel h/f.Mr.Kishor C.Sant.
Advocate for Respondents No. 1 to 3 : Mr. S. S. Dande,
AGP for Respondent No.4 : Mr. P. N. Lakhotiya.

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**CORAM : R.M. BORDE &
K.K. SONAWANE, JJ.**

DATE : 8th March, 2018.

ORAL JUDGMENT (PER R.M. Borde, J.) :-

1] Heard. Rule. With the consent of parties, petition is taken up for final hearing at the admission stage.

2] The petitioner submitted a tender for allotment of residential plot bearing No. RM-6 in response to the tender notice issued by the respondent Corporation. It is contended that the tender process consists of submitting two envelopes; one containing documents i.e. Technical bid and other in respect of offer i.e. financial bid. The petitioner contends that while tendering the Technical bid, he submitted the residential proof, namely, copies of Aadhar Card and affidavit sworn by the petitioner, stating that he is resident of Aurangabad. According to the petitioner, the financial bid is competitive, however, the same has not been considered and he is disqualified on the ground that he has not submitted the residential proof alongwith Envelope No.1.

3] The petitioner contends that he has been discriminated in the matter of allotment of residential plot and has been disqualified on irrelevant ground. It is the contention of the petitioner that in case of another individual who has submitted his bid for Plot No. RX-7/7, the Aadhar Card has been accepted as a valid residential proof. However, similar treatment has not been meted out to the petitioner.

4] The learned counsel for the respondents submits that it was incumbent upon the petitioner to tender a Domicile Certificate , which is a condition prescribed in the advertisement. It has not been denied that in case of another individual, who had submitted the tender in the same process, the Aadhar card has been accepted as a residential proof. Therefore, It does appear that the condition prescribed in respect of

submission of domicile certificate is not a mandatory requirement and a tenderer is expected to submit a valid residential proof, whereby, the tenderer can satisfy the authorities as regards his residential status. In the instant matter, the petitioner prima facie established that he is the resident of Aurangabad on the basis of documentary evidence, namely, his Aadhar Card as well as affidavit sworn by him, which was presented while submitting the tender.

5] In the circumstances, we are of the opinion that the respondent Corporation ought to have extended uniform treatment to all the tenderers. It should not discriminate amongst different individuals participating in the same tender process. The application/tender submitted by the petitioner appears to have been turned down on irrelevant consideration, though, prima-facie, he has established that he satisfies the requirement of residence/domicile in the State of Maharashtra. In the circumstances, the respondents are required to re-consider the decision recorded on 18.9.2015, rejecting the tender/offer submitted by the petitioner.

6] In the result, writ petition stands allowed. The communication dated 18.9.2015 issued by the respondent No.2 is quashed and set aside and the respondents are directed to reconsider the decision, in the light of the observations made as above. Appropriate decision on the application filed by petitioner be taken, as expeditiously as possible and preferably within 4 weeks from today. The same be communicated to the petitioner.

7] Rule is made absolute in above terms. There shall be no orders as to costs.

[K.K.SONAWANE, J]

[R.M. BORDE, J]

grt/-