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IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD

PUBLIC INTEREST LITIGATION NO.122 OF 2018

Sanjay s/o Rambhau Sawant ... PETITIONER

VERSUS

The State of Maharashtra & ors. ... RESPONDENTS

.....
Shri A.D. Shinde, Advocate holding for
Shri M.P. Bhaskar, Advocate for petitioner
Mrs. A.V. Gondhalekar, A.G.P. for State
.....

CORAM: PRASANNA B. VARALE AND
MANISH PITALE, JJ.

DATED : 4th OCTOBER, 2018.

ORAL ORDER :

1. Heard the counsel for petitioner at length. The learned counsel submitted that, the petitioner is before this Court, raising his grievance against the allotment of tender work to respondent No.5. The basic prayers in the petition are prayers (A) and (C). Prayer (A) reads thus :

(A) E-tender No.69105 in respect of improvement of Harsool- Jatwada- Jaitkheda Road State Highway 214 KM, 10/00 to 20/00, 22/00 to 23/00 and 37/00 to 46/00 allotted to

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respondent No.5 by work order dated 09.04.2018 issued by respondent No.4 may kindly be cancelled.

Prayer clause (C) reads thus :

- (C) To direct an inquiry by retired Judge in respect of allotment of E-tender No.69105 in respect of improvement of Harsool- Jatwada- Jaitkheda Road State Highway 214 KM, 10/00 to 20/00, 22/00 to 23/00 and 37/00 to 46/00 allotted to respondent No.5 by work order dated 09.04.2018 issued by respondent No.4.

2. The developmental activity is undertaken by way of issuing a tender notice namely E-tender No.69105 in respect of improvement of the Harsool- Jatwada- Jaitkheda Road State Highway. The petitioner though states in the title clause of the petition that he runs a business and is a social worker, there is a blissful silence on the nature of the business being carried out by the petitioner. Except these details, the petitioner has provided all other details about the respondents. It is stated in the petition itself that, the tender notice was issued for the said work and in response to the notice, number of bidders approached the respondent authorities, but finally, amongst 4 bidders, the bid of respondent No.5 was found to be the lowest. The comparative status is also placed on record. With these submissions, it is

more than clear that, in the fray for the tender for the road, there were 5 bidders in the last screening process and respondent No.5 having the lowest bid, was selected by the authorities.

3. Taking these facts on their face value, it is clear that if there is any grievance of an allotment of tender to respondent No.5, firstly it was of those other unsuccessful candidates who are having remedies available to challenge the allotment of work to respondent No.5. The learned counsel submits that, the respondent No.5 was not possessing the requisite machinery and then invited our attention to certain documents placed on record to submit that the respondent No.5 is arranging the machinery by other agency, in short, may be by an outsource method. Now merely on these documents to lead to the conclusion that the respondent No.5 was not a bidder competent enough to stake his claim and then further to arrive at a conclusion that the tender allotted to respondent No.5 is a gross irregularity or illegality, is only to say that, arriving at a conclusion by mere guess work. In any case, this Court is not supposed to arrive at a conclusion merely on a guess work. It may be possible for the petitioner, but this Court certainly cannot expand its scope and enter in that arena only on assumptions and presumptions of the petitioner.

4. The prayer clause (C) is again a direction sought by the petitioner to conduct an enquiry in the matter by a retired Judge. This prayer is also only on assumptions and presumptions

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of the petitioner and some documents with a submission that the respondent No.5 was not possessing certain machinery. Considering all these facts, we are of the clear opinion that the petition falls too short to take cognizance as a Public Interest Litigation. We are not at all inclined to entertain the petition having so many lacunae referred above by us. The petition is meritless and deserves to be dismissed at the threshold and same is accordingly dismissed.

(MANISH PITALE)
JUDGE

(PRASANNA B. VARALE)
JUDGE

fmp/-

Faridkhan
Mahammadkhan
Pathan

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