

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 1499 OF 2017

G. B. Jain & Sons. ..Petitioner.
Versus
State of Maharashtra & Others. ..Respondents.

Mr. Amol P. Mhatre for the Petitioner.
Mr. S. B. Gore, AGP for the Respondent-State.
Mr. S. P. Bharati for Respondent No. 2.

Sachin
Ramchandra
Patil

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Sachin Ramchandra
Patil
Date: 2018.07.09
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Coram : RANJIT MORE &
SMT. ANUJA PRABHUDESSAI, JJ.
Date : **June 27, 2018.**

P. C. :

1. Rule. Rule made returnable forthwith. By consent, petition is taken up for final disposal.
2. Heard Mr. Mhatre, the learned Counsel for the petitioner, Mr. Gore, the learned AGP for the State and Mr. Bharati, the learned Counsel for the respondent No.2.
3. The respondent no.2 had issued tender notice calling applicants for appointment of agency for manning, operation and management of houseboats in Mumbai harbour on revenue sharing basis.
4. Mr. Mhatre, the learned Counsel for the petitioner challenged the tender process as well as the work order issued in favour of the respondent no.4 mainly on three grounds viz. the

respondent no.1 had purchased EoI after the scheduled date and had submitted the same on 18.04.2016 at 3.00 p.m. which was also beyond the scheduled time; secondly the respondent no.4 had no experience as required under the tender document and experience certificate submitted by the respondent no.4 was not genuine, and thirdly, the respondent no.4 has also not submitted copies of income tax returns or financial turnover of last three financial years, duly certified by CA to show that it had minimum turn over of Rs.50 lakhs in last three financial years. It is the case of the petitioner that the respondent no.2 had issued work order in favour of respondent no.4 though it does not meet the eligibility criteria.

5. The learned counsel for the respondents have submitted that the petitioner did not meet the essential eligibility criteria viz. The experience in hospitality services. They have also denied that the respondent no.4 had purchased and submitted the EoI documents beyond the scheduled time and date. It was submitted that the work order was issued in favour of respondent no.4 since he met the eligibility criteria.

6. We have perused the records and considered the submissions advanced by the learned Counsel for the petitioner and the respondents. The respondent no.2 had issued a tender notice

calling upon offers for appointment of agency for manning, operation and management of two houseboats at Bombay harbour on revenue sharing basis. The scheduled date of sale of Expression of Interest (for short "EoI") was from 24.3.2016 to 02.04.2016 and the scheduled date of submission of EoI document was till 4.4.2016. Till this period only one tender was received. Therefore, the respondent no.2 had extended the date of sale of EoI documents till 16.04.2016, and consequently also extended the date of submission of the EoI documents till 18.4.2016 upto 2.00 p.m.

7. The petitioner has claimed that the respondent no.4 had purchased the EoI documents beyond the scheduled date, the reason being that the respondent no.4 had drawn the Demand Draft for Rs.1000/- on 18.04.2016 when the last date of sale of EoI was 16.04.2016. In this regard, a perusal of the tender document reveals that the bid documents could be purchased from the Manager, Adventure Sports MTDC or could be downloaded from the website. In case the document was downloaded from the website then the non-refundable amount of Rs.1000/- was required to be paid at the time of submission of EoI with Demand Draft.

8. In the instant case, the respondent no.4 had stated that he had down loaded the documents from the website and had paid

the non-refundable amount of Rs.1000/- by way of Demand Draft on 18.04.2016 i.e. on the date of submission of EoI. It is thus evident that the EoI document was purchased as well as submitted within the stipulated time.

9. As per the tender document, in order to become eligible for appointment of agency, the bidder was required to have experience in manning, management, operation and hospitality services of houseboats, luxury boats, yachts for three years. The respondent no.4 had produced the experience certificate, copy of which is annexed at Exhibit F at page 92. The said experience certificate indicates that the respondent no.4 had requisite experience. The said certificate cannot be discarded because the company had issued the said certificate and had also issued different certificates as regards dying of the vessel on 17.11.2013 by two different companies.

10. Another eligibility criteria as per the tender document was that the bidder was required to have minimum turn over of Rs.50 lakhs in last three years. In paragraph 7 of the affidavit dated 17.11.2017 respondent no.2 had made a categorical statement that the respondent no.4 had submitted the necessary documents to show that he had minimum turn over of Rs.50 lakhs in last three financial

years. The respondent no.4 therefore fulfilled the eligibility criteria. As against this the experience certificate produced by the petitioner does not indicate that he had experience in management, operation and hospitality of houseboats for three years. The petitioner therefore did not meet the eligibility criteria and hence could not allege bias or favoritism.

11. In the light of above, we find that the petition is devoid of any merit and the same is therefore dismissed. Rule is discharged.

[SMT. ANUJA PRABHUDESSAI, J.]

[RANJIT MORE, J.]