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

WRIT PETITION NO.1042 OF 2019

M/s. Rachna Electricals

..PETITIONER

VERSUS

The Chief Executive Officer & anr.

..RESPONDENTS

Mr S. J. Salunke, Advocate for petitioner

**CORAM : PRASANNA B. VARALE
AND
S. M. GAVHANE, JJ.**

DATE : 24th January, 2019

ORAL ORDER:

Heard Mr Salunke, learned Counsel appearing on behalf of the petitioner.

2. The present petition relates to the tenders floated by respondent No.1 - Chief Executive Officer, Maharashtra State Wakf Board, Panchakki, Aurangabad, for providing temporary electricity supply to the shops, decoration, tents and police camps installed on account of Urs of Dargah Hajrat Sayyad Shaha Turabul Haq Saheb at Parbhani.

3. It is submitted by Mr Salunke, learned Counsel for the petitioner that this is a phenomenal religious activity having a long history and a large number of people attend the Urs. He then, by inviting our attention to the

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tender conditions, submitted that Clause-3 of the notice refers to the technical bid and the compliance. Placing heavy reliance on Clause 3-B, Mr Salunke submitted that the prerequisite is, necessary certificate of registration granted from the Public Works Department (Electricity Section) and the Maharashtra State Electricity Board. Clause-C refers to the Income Tax Returns and Clause-F refers to the criteria/eligibility of experience in the field.

4. Learned Counsel then invited our attention to the offer submitted by the petitioner and other interested bidders in response to the tender notice. The statement in tabular format placed on record at Exh.'E' shows that the petitioner offered the lowest price i.e. Rs.6,70,000/-. Then the tabular format shows that three bidders including the petitioner were complied with all the requisite criteria having registration certificate, Income Tax Return, experience certificate and G.S.T. registration. This tabular form further shows that respondent No.2 has neither submitted any certificate of registration as an approved contractor nor any experience certificate. The only document submitted by respondent No.2 was Returns of Income Tax and G.S.T. registration. While opening the technical bids, the petitioner and the other tenderers raised an objection against respondent No.2 and a copy of the document is placed on record at Exh.'F' shows that respondent No.2 submitted his tender as a joint venture. This was also an additional ground of objection raised against respondent No.2.

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5. By communication dated 17th January, 2019, respondent No.1 informed respondent No.2 that as respondent No.2 offered that he will undertake the work without payment of any money to him, the Board inclined to issue work order in his favour. It is only stated in the communication that respondent No.2 will have to give an undertaking that he will complete the work as per the terms and conditions.

6. Mr Salunke, learned Counsel for the petitioner submitted that decision taken by respondent No.1 is clearly unsustainable as respondent No.2 is not complied with the requisite conditions of the tender. Learned Counsel for the petitioners is also justified in submitting before us that a large number of people would attend the Urs and as per the tender conditions, the Wakf Board is not bearing any responsibility for any mishap or loss. The communication issued by respondent No.1 that only because respondent No.2 is ready to provide services without having any monetary gains, there cannot be any compromise with the life and property of the public on account of an offer being shown by the party to sustain monetary losses.

7. As the Urs is scheduled to take place from 31st January, 2019, we issue notice to respondents, making the same returnable on 29th January, 2019.

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8. Respondent No.1 to explain as to how the authority arrived at a conclusion to issue work order in favour of respondent No.2, when respondent No.2 is not even possessing a certificate of registration or the experience certificate at the time of opening technical bids.

9. The petitioner is permitted to serve respondents by any other legally permissible mode of service apart from Court service.

10. Learned Counsel for the petitioner submits that the petitioner be permitted to publish the notice in the newspaper, considering the urgency in the matter. The petitioner is permitted to publish a notice in the newspaper having wide circulation in Parbhani area.

(S. M. GAVHANE, J.)

(PRASANNA B. VARALE, J.)

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