

IN THE HIGH COURT OF BOMBAY AT GOA**WRIT PETITION NO. 653 OF 2019**

OCEAN SPARKLE LTD., THR. ITS AUT.
REP., ROHIDAS RAM RANE.

... Petitioner

Versus

MORMUGAO PORT TRUST, THR. THE
DEPUTY CONSERVATOR AND ANR.

... Respondents

Mr. S. S. Kantak, Senior Advocate with Mr. Rama Gajanan Rivankar,
Advocate for the Petitioner.

Mr. Yogesh V. Nadkarni and Ms. D. Shirgam, Advocates for
Respondent No.1.

Mr. Mayank Sharma i/b Ms. Sandhya Pillai, Advocate for Respondent
No.2.

**Coram:- M. S. SONAK &
NUTAN D. SARDESSAI, JJ.**

Date:- 21st August, 2019

P.C.

Heard Mr. S. S. Kantak, learned Senior Advocate
alongwith Mr. Rivankar, for the Petitioner.

2. Mr. Y. Nadkarni appears for Respondent No.1 and
Mr. Mayank Sharma instructed by Ms. Sandhya Pillai, appears for
Respondent No.2.

3. The challenge in this petition is to the decision of
Respondent No.1-MPT accepting the technical bid submitted by
Respondent No.2. The Petitioner, as a consequence, had also sought

for the relief that the tender in question be awarded to the Petitioner.

4. Mr. Santosh Naik, Law Officer (Grade-II) of Respondent No.1-MPT has filed an affidavit in reply dated 19.08.2019. In paragraphs 41, 42 and 43 of his affidavit in reply, this is what he has stated thus :

“41. The said Tender Committee observed that in respect of the Respondent No.2 herein, in the price schedule fuel consumption quoted per hour of operation of per main engine at 100% MCR (litres/hr) is 261 litres per hour and auxiliary engine is 8 litres per hour, which is not correct as brought out in the technical scrutiny report. It was observed that the figures arrived while evaluation were 341.47 litres per hour for the main engine and 24.53 litres per hour for auxiliary engine.

As such, the price bid submitted by Respondent No.2 was found irregular and defective and hence bid was rejected.

42. The Tender Committee further proposed and recommended to discharge the tender as the price offer of the Petitioner of Rs.1,53,000/- is 17.69% more than the estimated cost of Rs.1,30,000/-.

*A true copy of the Minutes of the Tender Committee held on 03/08/2019 is hereto annexed and marked “**Exhibit R9**”.*

43. The Competent Authority viz., the Chairman of Respondent No.1 has approved the recommendation of the Tender Committee and, as such, the subject Tender has been discharged and the Respondent No.1 proposes to issue a fresh Tender.”

5. From the aforesaid, it is apparent that the Respondent

No.1 - MPT has taken a decision not to accept the price bid of Respondent No.2 and further discharge the tender and issue a fresh tender in the matter.

6. In view of the aforesaid, according to us, the reliefs in this petition, are rendered substantially infructuous. However, if the Petitioner, as well as the Respondent No.2, are aggrieved by the decision of Respondent No.1-MPT, then, they can always be granted leave to challenge such decision of Respondent No.1 - MPT by instituting a fresh petition. In fact, both the Petitioner as well as the Respondent No.2 seek a clarification in this regard and therefore, this clarification is issued.

7. The learned counsel for Respondent No.2 seeks further clarification that Respondent No.2 be permitted to bid at a fresh tender process. According to us, no such leave is necessary because if the Respondent No.2 regards itself as eligible, then, there can be no bar to Respondent No.2 submitting its fresh bid in the matter. The issue as to whether the Respondent No.2 is eligible or not is not adjudicated in this petition. Accordingly, all contentions of all parties are expressly left open.

8. The petition is disposed of in the aforesaid terms.

NUTAN D. SARDESSAI, J.

M. S. SONAK, J.

at*