

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 260 OF 2019

M/s. Shri. Bhairavnath Earthmovers & Co.
Through Partner Shri. Yuvraj Patil .. Petitioner

v/s.

The State of Maharashtra & Anr. .. Respondents

Mr. S.S. Patwardhan for the petitioner
Mr. Y.S. Khochare, AGP for the respondent nos. 1 and 2

**CORAM : A.S. OKA &
M.S. SANKLECHA, J.J.**

DATED : 16th APRIL, 2019

P.C.

1. Heard the learned Counsel appearing for the petitioner and the learned AGP for the respondents.

2. The respondents invited tenders for grant of mining lease for Limestone, Iron ore etc. The petitioner paid a sum of Rs.5,00,000/- as required by the tender document conditions. The petitioner had submitted a tender. In the fourth round of auction, though there were six bidders, by a notice published on 10th April, 2018, the respondents annulled the said auction on incorrect premise that there were only three bidders. The challenge in this petition under Article 226 of the

Constitution of India is to the part of the communication dated 27th September, 2018 issued by the first respondent. By the said communication, the petitioner and other tenderers were informed to participate in the fifth round.

3. There is an affidavit-in-reply filed by Roshan Rajeshwar Meshram, Deputy Director (Incharge), Directorate of Geology and Mining, Government of Maharashtra, Nagpur. The affidavit records that the State Government has granted permission to allow the petitioner and other tenderers to use the deposit of Rs.5,00,000/- paid in the fourth round to enable them to participate in the fifth round. The affidavit records that the grievance of the petitioner will not subsist as he has been permitted to participate in the fifth round. On the last date, the learned AGP tendered across the bar a list of all technical bidders in the fifth round of E-Tender, which shows that the petitioner participated in the fifth round of E-Tender. Even today, the learned AGP reiterates on instructions that the petitioner participated in the fifth round of auction. The learned Counsel appearing for the petitioner states that he has not received any instructions from the petitioner to deal with the aforesaid statement which was made on the last date.

4. Therefore, there is no reason to doubt the correctness of the statement made by the learned AGP on instructions. In view of the said statement, now the petitioner cannot be allowed to agitate his grievances regarding the fourth round in E-auction. Hence, no case is made out for interference under Article 226 of the Constitution of India.

5. The petition is dismissed.

6. Needless to add that the fifth round of E-Tender will be conducted in accordance with law.

(M.S. SANKLECHA, J.)

(A. S. OKA, J.)