

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.2070 OF 2019

(M/s. Saburi Construction Company vs. State of Maharashtra and others)

WITH WRIT PETITION NO.2244 OF 2019

(M/s. Saburi Construction Company vs. State of Maharashtra and others)

Office Notes, Office Memoranda of
Coram, appearances, Court's orders Court's or Judge's orders
or directions and Registrar's orders.

Shri P.R. Agrawal, Advocate for petitioner.

Ms. N.P. Mehta, Assistant Government Pleader for
respondent nos.1 to 4.

Shri S.P. Bhandarkar, Advocate for respondent no.5.

Shri K.N. Shukul, Advocate for respondent no.7.

CORAM : R.K. DESHPANDE AND
VINAY JOSHI, JJ.

DATED : OCTOBER 15, 2019

In the order dated 12/3/2019 passed by this Court in Writ Petition No.2070/2019, the word “possessed” appearing in the third paragraph be corrected as “possessing”. The correction be carried out.

2) The challenge in these petitions is to the rejection of the technical bid of the petitioner and also to relaxation in some of the technical conditions after opening of technical bids.

3) On 12/3/2019, we passed an order in Writ Petition No.2070/2019 as under :

“Issue notice for final disposal of the matter, to the respondents, returnable on 2-5-2019.

Shri Deopujari, the learned Government Pleader, waives service of notice for the respondent nos.1 to 4.

In the technical bid, none of the bidders were found to be possessing the minimum eligibility criteria. This was expressed at three levels, but the Chief Engineer has made a remark that the bid capacity be calculated on the basis of the annual turnover and the excavation quantity to be relaxed so as to qualify at least two bidders. As a result, the respondent nos.5 and 6 became qualified, whereas the petitioner is ousted from the competition.

The parties are directed to maintain status quo.”

4) There is no dispute that the condition of excavation of a particular quantity has been relaxed in the sense that the quantum of excavation is reduced. The power of relaxation is contained in Clause 4 of the tender document, which is reproduced below :

“iv. The Competent Authority may use its

discretion to relax the appropriate criteria with a view to qualify ensure adequate competition in tendering.”

It is the prerogative of the Authority to judge as to which of the conditions are required to be relaxed keeping in view the nature of work. Be that as it may, if the petitioner was otherwise technically qualified, it would be the beneficiary of such relaxation also. Hence, the relaxation of condition does not cause any prejudice to the petitioner.

5) The work in question is regarding construction of check dam with Faser Composit Gates (FRP/GRP) of Tahsil Chamorshi, Mulchera, District Gadchiroli and Tahsil Korchi, Kurkheda, Dhanora, Gadchiroli, Wadsa, Armori, District Gadchiroli. The petitioner undisputedly does not possess experience of such work. It is also not in dispute that the petitioner was not a Contractor registered with respondent no.7, which was also one of the conditions.

6) In view of above, we do not find that these are the cases warranting interference. The writ petitions are, therefore, dismissed.

JUDGE

JUDGE

khj