

IN THE HIGH COURT OF BOMBAY AT GOA.**WRIT PETITION NO. 102 OF 2020.**

PVR. LTD., REP. BY PRAHLAD
SINGH

..... PETITIONER.

VERSUS

STATE OF GOA, THR. CHIEF
SECRETARY AND 2 ORS.,

..... RESPONDENTS.

Shri S. S. Kantak, Senior Advocate with Shri A. Gosavi, Advocate for the petitioner.

Shri D. Pangam, Advocate General with Ms. A. Kamat, Addl. Govt. Advocate for the respondent nos.1 and 2.

Shri Y. V. Nadkarni and Shri S. Kamat, Advocates for the respondent no.3.

**Coram:- M. S. SONAK &
SMT. M. S. JAWALKAR, JJ.**

Date:- 5th February 2020.

ORAL ORDER (PER M. S. Sonak, J.)

Heard Shri S. S. Kantak, learned Senior counsel alongwith Shri A. Gosavi, learned Counsel for the petitioner, Shri D. Pangam, learned Advocate General along with Ms. A. Kamat, learned Addl. Govt. Advocate for the respondent nos.1 and 2 and Shri Y. V. Nadkarni, learned Counsel alongwith Shri S. Kamat, learned Counsel for the respondent no.3.

2. The main challenge in this petition is to the communication dated 13.1.2020 read with reasons furnished on 16.1.2020 by which the petitioner's technical bid came to be rejected on the alleged ground that the petitioner did not meet the prescribed eligibility requirements.

3. The record, as presented before us, indicates that there were only two bidders in the race including the petitioner.

Since, no interim relief was granted bid of the respondent no.3, which was in an amount of approximately Rs. 54,00,000/- per month, was opened on 16.1.2020.

4. Shri Kantak, learned Senior Counsel on the basis of instructions agrees that the bid which had been submitted by the petitioner did not match this figure. Accordingly, even we were to proceed to consider the matter and decide that the petitioner was in deed eligible, that by itself, may not have made any substantial difference to the ultimate result.

5. Shri Nadkarni, has relied upon the decision of the Division Bench of this Court in case of **Shapoorji Pallonji & Company Ltd. Vs. Maharashtra State Power Generation Co. Ltd and *anr.***¹, where in similar circumstances, this Court observed that issue raised in such petition, might be rendered academic. The relevant observations are to be found in paragraphs 6 and 7 which read as follows:-

*“6. Beside this, after hearing the arguments for some time, the Court vide its order dated 17th June, 2009 had directed the respondents to produce the records in Court as well as examine the Bids comparatively with the financial bid of the petitioner-Company. The said order reads as under:-
1. In this case, we had heard the arguments for some time. Thereafter we had directed the respondents to produce the record in Court. The original record was produced. When the case was called out again, for the reasons best known to the officers of both the respondents, the original papers were not produced. The case was again passed on and the respondents were directed to produce the*

¹ 2009(5) Bom. C. R. 658.

record in Court. Now the records have been produced.

2. The bid has been opened. The learned Counsel appearing for the said respondents have also given us the figures given by the three parties whose technical bid was found to be in order by them.

3. We may notice that this we have done only for the purpose of finding out certain facts and without prejudice to the rights and contentions of the parties that the financial bid of the Petitioners could even be considered or not

4. Stand over to 18th June, 2009.

- 7. The above order was made primarily with an intention to know that if the financial Bid of the Petitioner-Company was not the lowest the entire matter then would be academic and need not be examined by the Court. However, when the Bids were opened, the counsel appearing for the Respondents also filed the Price Schedule 1-A. The financial bid submitted by the Petitioner Company appeared to be much lower to that of the other Bidders. The Petitioners' Bid appeared to be Rs.1522,59,42,428 (price without taxes) while the other lowest Bid of M/s.BGR Energy System Ltd., Chennai is Rs.1599.45 crores. It is in these circumstances that we have heard the parties further on merits."*

6. Now, that it is accepted that the financial bid of the petitioner, in any case, does not match upto to the bid submitted by the respondent no.3, we are satisfied that no useful purpose would be served in examining the challenge in this petition, in so far as the issue of eligibility to the petitioner is concerned.

7. Accordingly, we dispose of this petition as infructuous.

SMT. M. S. JAWALKAR, J.

M. S. SONAK, J.