IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 529 OF 2021

Vijay Construction Company through
Its Partner Sujeetsinh Udaysinh Dikhat .. Petitioner

Versus

Maharashtra Rural Road Development
Association Through its Secretary
PMGSY and CEO MRRDA and others .. Respondents

Shri J. N. Singh, Advocate for the Petitioner.
Shri S. G. Karlekar, A.G.P. for the Respondent/State.

CORAM : S. V. GANGAPURWALA AND
SHRIKANT D. KULKARNI, JJ.
DATE : 14TH JANUARY, 2021.

FINAL ORDER :

. The technical bid of the petitioner is rejected on the ground that the petitioner did not submit the bank certificate of the required amount i. e. Rs. 1.35 crores.

2. Mr. Singh, the learned counsel for the petitioner submits that, along with tender, the petitioner had submitted the bank certificate, certifying that the petitioner is entitled for the credit facility of Rs. 1.10 crores. The requirement was of Rs. 1.35 crores. In case the respondent authority was of the view that there is some defect in the bank certificate, then opportunity ought to have been given to the petitioner before rejecting the technical bid. The learned counsel relies on clause 4.5.2 of the

Government Resolution dated 27.09.2018. The learned counsel further submits that, on 31st December, 2020, the petitioner had submitted a bank certificate wherein the bank had agreed that the petitioner would be entitled for Overdraft/cash credit facility upto Rs. 1.60 crores. The same ought to have been considered. The respondents would have been benefited by Rs. 36 Lacs, if the tender of the petitioner would have been accepted.

3. Mr. Karlekar, the learned Assistant Government Pleader submits that, admittedly, the petitioner did not submit the bank certificate as was required under the tender document. Even bank certificate submitted on 31st December, 2020 does not satisfy the criteria. The bank never gave the certificate that it shall give the petitioner Overdraft/cash credit facility of Rs. 1.35 crores. On the contrary the letter submitted by the petitioner was conditional letter. It was not in tune with the requirement.

4. We have considered the submissions canvassed by the learned counsel for respective parties.

5. The petitioner admittedly did not produce the bank certificate showing the credit of the petitioner for Rs. 1.35 crores. The petitioner was required to give evidence of assessing the line of credit and availability of other financial resources to the extent of 15% of the contract value. The certificate issued by the banker and certificate attached with the tender document was not proper. The petitioner subsequent to the rejection of technical bid submitted a letter on 31st December, 2020.

Relevant part of the letter/certificate reads thus :

> "The firm already has exposure of Cash Credit of Rs. 60.00 Lakhs and we may consider providing Overdraft/Cash credit facilities after fulfillment of Bank's terms and conditions in vogue, to the extent further of Rs. 1.00 crore to meet their working capital requirements making their overall exposue of Rs. 1.60 crore for executing the above contract.
>
> It is clarified that this Certificate is issued without any risk and responsibility on the part of State Bank of India or any of its officials in any respect whatsoever, more particularly either as guarantor of otherwise. This certificate must be taken as a private and confidential report given by the Bank without prejudice and on the express condition that State Bank of India & its officials are held free by you from any liability in connection with it."

6. Whereas the certificate required as per the tender is as under :

BANK CERTIFICATE

> This is to certify that M/S__________ is a reputed company with a good financial standing.
>
> If the Contract for the work, namely,_____________ is awarded to the above firm, we shall be able to provide overdraft/credit facilities to the extent of Rs.________ to meet their working capital requirements for executing the above contract.
>
> Signature of Senior Bank Manager
> Name of the senior Bank Manager
> Address of the Bank
> Stamp of the Bank

7. The letter produced by the petitioner was conditional letter not in tune with the requirement envisaged under the terms of the tender.

8. In the light of that, we do not find any error on the part of the respondents in rejecting the technical bid of the petitioner.

9. The writ petition as such stands disposed of. No costs.

[SHRIKANT D. KULKARNI, J.] **[S. V. GANGAPURWALA, J.]**

bsb/Jan. 21