

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

945 WRIT PETITION NO.7114 OF 2021

ADARSH SERVICES, THR ITS PROPRIETOR
SAYYED ASIFALI CHOTUBHAI .. Petitioner

VERSUS

THE ADMINISTRATOR, CIDCO LTD.,
UDYOG BHAVAN, TOWN CENTRE, CIDCO OFFICE,
NEW AURANGABAD, DIST. AURANGABAD .. Respondent

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Advocate for the Petitioner : Mr N.T. Tribhuwan
Advocate for the Respondent : Mr Sachin Deshmukh

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**CORAM : S. V. GANGAPURWALA &
R.N. LADDHA, JJ.**

DATE : 30-06-2021

PER COURT : -

1. Mr Tribhuwan, the learned Advocate for the petitioner submits that though the petitioner is the lowest bidder in the tender process conducted by the respondent for the work of Management of Municipal Solid Waste with Door to Door Collection, Segregation, Transportation, Processing and Disposal including road sweeping at CIDCO Waluj Mahanagar 1, 2, 4 and 75% area, still the work order is not issued to the petitioner and the respondent is entering into the negotiations with the second lowest, the same is illegal. The learned Advocate submits that, the petitioner would confirm to the Minimum

Wages Act while paying wages to the employees engaged in the performance of work. According to the learned Advocate, even two tractors are sufficient. Earlier when the work was issued for the year 2018, the same was done by two tractors. It is not necessary to calculate the expenses considering four tractors. Nonetheless, the petitioner possesses four tractors. In fact the petitioner possesses twelve tippers, the same can be used as tractors also. The respondent be directed to invite the present petitioner for negotiation for a better competition. Even other second lowest bidder is not qualified.

2. Mr Deshmukh, the learned Advocate for the respondent submits that, the tender of the petitioner was not in consonance with the tender notice and as such is not considered.

3. It is trite that the Court cannot rewrite the covenants of the tender. The terms and conditions going to the root are sacrosanct. The same are required to be abided. Technical flaws can be allowed to be corrected in certain circumstances.

4. In the present matter, the tender notice requires a party to provide four tractors, eight rickshaws per day and total forty five labours per day. Going by the representation given by the petitioner,

it appears that, the petitioner has calculated the expenses presuming two tractors and eight employees less. The tender filled in by the petitioner was certainly not in tune with the tender notice.

5. In light of that, this Court cannot come to the aid of the petitioner.

6. In case the petitioner thinks that the second lowest bidder was also not qualified, the same would be considered by the respondent.

7. Writ petition is disposed of. No costs.

[R.N. LADDHA]
JUDGE

[S. V. GANGAPURWALA]
JUDGE

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