

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

953 WRIT PETITION NO.7201 OF 2021

UNITED CORPORATION
THR EHTESHAM UI HAQ S ANSARI ..PETITIONER

VERSUS

THE STATE OF MAHARASHTRA THR
THE GOVERNMENT PLEADER AND OTHERS ..RESPONDENTS

...
Mr. Amrut Joshi i/by Ms. Sudha Dwivedi, Advocates
for the Petitioner.
Mr. P. G. Borade, AGP for Respondents-State.

...
AND

954 WRIT PETITION NO.7202 OF 2021

GARIB NAWAZ CORPORATION THR ITS SOLE PROPRIETOR
ABUL HASAN ALI ..PETITIONER

VERSUS

THE STATE OF MAHARASHTRA THR GOVERNMENT PLEADER AND
OTHERS ..RESPONDENTS

...
Mr. Rajeev Aghashe i/by Ms. Sudha Dwivedi,
Advocates for the Petitioner.
Mr. P. S. Patil, AGP for Respondents-State.

...

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

DATED : 02nd JULY, 2021.

PER COURT:-

1. Mr. Joshi, and Mr. Aghashe, learned Advocates for petitioners strenuously contend that the terms of the tender are unreasonable, arbitrary and does not have rational nexus.

2. It is further submitted that the terms of the tender are too vague. The bidder is required to verify for himself/itself the condition of the pipes, length of pipes and all other aspects. The tender ought to be specific. The terms and conditions are required to be specific so that the parties i.e. principal and the persons filling in tenders are *ad idem* about the exact nature of the work. Such a Clause in the tender is unreasonable and would dissuade the parties from filling in tender, thereby depriving competition. The purpose of the tender is to invite more number of bidders and to have the best of the rates. The casualty would be the public exchequer. Only one tenderer was selected as eligible and the work order is issued to him. The performance security is also not taken as per the well settled process and only 3% of the value of the contract is obtained as performance security, the same is also illegal. The petitioners were corresponding with the Authorities and seeking clarification of the terms and conditions of the tender, but were never apprised of the same.

3. We have heard the learned A.G.P.

4. The petitioner of Writ Petition No.7201/2021 had even downloaded the tender and sought extension of time to fill in the tender. The petitioner therein was unsuccessful in getting

the time extended. Both the petitioners did not approach the Court until the work order is issued. The duration of the tender is only 90 days. 15 days are already over.

5. It would be too late in the day now to consider the challenge to the terms and conditions of the tender. More particularly, when one of the petitioner also attempted to fill in the tender, but was unsuccessful and thereafter has turned around to assail the terms of the tender.

6. In view of the aforesaid, we are not inclined to exercise our writ jurisdiction under Article 226 of the Constitution of India.

7. In light of the above, writ petitions are disposed of. No costs.

(R. N. LADDHA)
JUDGE

(S. V. GANGAPURWALA)
JUDGE