

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

**1027 WRIT PETITION NO. 7306 OF 2021
WITH
CA/7527/2021 IN WP/7306/2021**

**BEROJGARANCHI KSHITIJ NAGARIK SEVA SAHAKARI
SANSTHA (BKNSSS) THROUGH ITS PRESIDENT
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

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Advocate for Petitioner: Mr. Bachate Pralhad D.
AGP for Respondents No. 1 & 2: Mr. S. G. Karlekar
Advocate for Respondent No. 3: Mr. D. P. Bakshi
Advocate for Respondent No. 4: Mr. S. V. Mundhe
Advocate for Intervenor: Mr. D. P. Palodkar

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

DATE: 06th AUGUST, 2021

PER COURT:

1. The petitioner is challenging letter dated 22.06.2021 issued by the Collector, Parbhani calling for fresh tender. The said prayer does not survive in view of the further process undertaken by the Municipal Council to finalize the tender.

2. Mr. Bachate, learned Counsel for the petitioner submits that the petitioner is lowest tenderer. The respondents are in error

considering the intervenor as the lowest tenderer. The learned Counsel relies upon the rates per day. According to the petitioner, the petitioner's per day payment comes to Rs.66,737/- and for 1 month is 20,02,125/-, whereas intervenor's rate would be Rs.76,032/- for 1 day and Rs.22,80,960/- for 1 month. This would show that the petitioner is the lowest tenderer. This aspect has not been considered by the Municipal Council.

3. According to Mr. Mundhe, learned Counsel for the Municipal Council and Mr. Palodkar, learned Counsel for the intervenor, the petitioner is only considering the payment to be received but is not considering the payments to be made by the tenderer to the Municipal Council. For first 5 works the tenderer has to receive the payment from the Municipal Council, whereas for the remaining 3 works the tenderer has to make payment to the Municipal Council. If all the aspects are taken cumulatively, the best offer is of the intervenor.

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

5. In contractual matters the scope of interference in writ jurisdiction under Article 226 of the Constitution of India would be in a narrow compass. The Court would be more concerned with the decision making process rather than the decision itself. As far as the rates are concerned, the Municipal Council would have the benefit of the experts assistance. It is upon the advice of the experts the Municipal Council would take decision as to the best offer received by it. Naturally, the tender will have to be allotted to the person giving the best offer favourable to the Municipal Council. The Municipal Council has stated that the best offer is of the intervenor. We would not be going into the merits of the calculations as placed on record.

6. If the petitioner has any doubt about the decision arrived at by the Municipal Council of the intervenor being the lowest, the petitioner

may raise an Objection with the Chief Executive Officer to that effect. The Chief Executive Officer shall consider the Objection of the petitioner on it's own merits and may decide the objection of the petitioner. The same shall be done before the issuance of work order.

7. The petitioner, if it wants to raise Objection, may raise it within a period of four (04) days.

8. Writ Petition is accordingly disposed of. No costs.

9. In view of disposal of the writ petition, the civil application is also disposed of.

[R. N. LADDHA, J.]

[S. V. GANGAPURWALA, J.]

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