

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

WRIT PETITION NO. 8660 OF 2021

M/s. S. P. Jaisingani, Proprietor,
Sevakram Parasram Jaisingani,
Government Transport Contractor & Fleet Owner,
Having Office at Station Road, Dondaicha,
Dist. Dhule.

...Petitioner

Versus

Food Corporation of India,
Maharashtra Region, Regional Office FCI Building,
5th & 6th Floor, Rajendra Nagar, Datta Pada Road,
Borivali (East), Mumbai, through its
General Manager , Maharashtra State.

...Respondent

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Mr. S. P. Shah h/f. Mr. Aditya N. Sikchi, Advocate for the petitioner
Mr. Milind Patil, Advocate for respondent

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**CORAM : S. V. GANGAPURWALA
AND
R. N. LADDHA**

DATE : September 01st, 2021

ORAL JUDGMENT [*Per S. V. Gangapurwala, J.*] : -

1. The petitioner had filed E-tender pursuant to the tender notice issued by the respondent inviting tenders for appointment of handling and transport of food grains. The petitioner filled in the tender. The technical bid of the petitioner was accepted on or about 19-07-2021. The e-mail to that effect was sent to the petitioner by the respondent.

2. On or about 04-08-2021, the respondent rejected the technical bid of the petitioner. The same is assailed in the writ petition.

3. Mr. S. P. Shah, learned Counsel for the petitioner submitted that though the technical bid of the petitioner was accepted on 19-07-2021, the same is abruptly rejected on 04-08-2021, without notice to the petitioner and behind the back of the petitioner. No opportunity was extended.

4. Mr. Milind Patil, learned Advocate for the respondent, submits that though the technical bid of the petitioner was accepted on 19-07-2021, the objections were received regarding the acceptance of the technical bid of the petitioner. The petitioner had the knowledge of the same and as such on 27-07-2021, gave his explanation and thereafter the technical bid of the petitioner is rejected on 04-08-2021, after considering the explanation given by the petitioner.

5. The technical bid of the petitioner is rejected on 04-08-2021 on the ground that, the experience certificate was submitted for

two different contract periods.

6. It is certainly for the experts to consider whether the tenderer qualifies the criteria of experience as laid down in the tender conditions.

7. In the present matter, undisputedly, the technical bid of the petitioner was accepted on 19-07-2021 and the communication to that effect was also made by the respondent to the petitioner. However, on 04-08-21, the same technical bid which was accepted earlier, is rejected.

8. It is not disputed that before rejecting the technical bid of the petitioner after having accepted it earlier, the respondent neither issued any notice to the petitioner nor had sought explanation regarding the intended grounds on which the technical bid of the petitioner was sought to be rejected. The submission is made by Mr. Patil, learned Advocate for the respondent, that the petitioner was having knowledge about the objection raised to his technical bid and as such on 28-07-2021, on its own volition, gave the explanation. The said explanation was not satisfactory according to the respondent.

9. The petitioner was not communicated the grounds of rejection of his technical bid, to which the petitioner is supposed to reply. After having accepted the technical bids the respondent wants to take a contrary decision, in such circumstances, the explanation ought to have been called from the petitioner regarding the objections raised by the other tenderers so that the petitioner is put to notice about the exact explanation to be given of the objections raised.

10. In light of aforesaid, the order dated 04-08-2021 cancelling the technical bid of the petitioner is set aside. The said order is set aside only on the ground that the petitioner was not given opportunity, more particularly, when his technical bid was already accepted by the respondent on 19-07-2021.

11. The ground for rejection is already stated by the respondent in the impugned communication. The petitioner now is aware of the ground that is sought to be considered by the respondent for entertaining the technical bid of the petitioner. The impugned order may be considered as show cause notice to the petitioner. The petitioner shall file reply to the same within a period of seven (7) days from today. The respondent shall consider the reply filed by the

petitioner and thereafter take decision with regard to the acceptance / rejection of the technical bid of the petitioner on its own merits.

12. Writ petition is accordingly disposed of. All the contentions of the respective parties are kept open.

[R. N. LADDHA]
JUDGE

[S. V. GANGAPURWALA]
JUDGE