

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

WRIT PETITION NO. 9757 OF 2021

Abhay Baburao Ingale

.. Petitioner

Versus

The State of Maharashtra and others

.. Respondents

Mr. R. N. Dhorde, Senior Advocate i/by A. B. Girase, Advocate for the Petitioner.

Mr. D. R. Kale, I/c. G. P. for Respondent Nos. 1 to 4.

Mr. M. S. Deshmukh, Advocate h/f Mr. Vivekanand Deshmukh, Advocate for Respondent No. 5.

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

DATED : 11th October, 2021.

PER COURT:-

- . The petitioner assails the tender notice dated 18.08.2021.
2. The petitioner claims to be the Vice President of the Municipal Council.
3. Mr. Dhorde, learned senior counsel for the petitioner submits that the first tender notice was issued on 20.05.2021. Two bids were received. The respondents did not proceed with the tender process. Thereafter, next tender notice is issued on 15.07.2021. Pursuant thereto also only two bids were received. Third tender notice is issued

on 18.08.2021. The learned senior counsel further submits that the act of the respondents in issuing multiple tender notices is not in consonance with the Government Resolution dated 27.09.2018, wherein the methodology is prescribed of receiving single tender. The learned senior counsel further submits that even, if, for the first time E-tender is issued and only two tenders are received, the same would be sufficient for considering those tenders. However, the respondents to favour one contractor did not proceed further with the second tender and have proceeded for third tender process. The same is with malafide intention. It is further submitted that even according to the standing order dated 29.12.2005 relied by the respondent/Municipal Council, it is necessary to first open the technical bids and it is only after the technical bids are opened and three qualified tenderers are in the fray, then only the financial bids are to be opened. The said process is not adhered to by the respondent No. 5.

4. We have also heard Mr. Deshmukh, learned counsel for the Municipal Council.

5. The petitioner is not a participant in the tender process. The third tender notice is already issued on 18.08.2021. The tender work is for the benefit of public. The tender process pursuant to the third tender notice is in progress. The technical bids are evaluated. According

to the respondents, now after issuance of third tender notice and opening of the technical bids, it is no gain saying that the bids pursuant to the second tender notice or the first tender notice ought to have been considered. The tenderers filling in the bids pursuant to the third tender notice would not be known to the party issuing the tender. It is a open tender, wherein all eligible persons can compete.

6. As already third tender notice is issued, there is no point in going back and asking the Municipal Council to proceed with the first and/or the second tender notice. Naturally, the qualified bidders will have to be selected and their bids will have to be considered.

7. Delay in public work is in nobody's interest. It is also not a case that because of not proceeding with the first and/or second tender notice and issuance of third tender notice public exchequer is at loss.

8. In the light of the above, writ petition is disposed of. No costs.

(R. N. LADDHA)
JUDGE

(S. V. GANGAPURWALA)
JUDGE

PS.B.