

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

963 WRIT PETITION NO.10568 OF 2021

R. D. PEST CONTROL, THROUGH ITS PROPRIETOR
PANDHARINATH RANGHNATH BHOSLE

VERSUS

CITY AND INDUSTRIAL DEVELOPMENT CORPORATION OF
MAHARASHTRA LTD., THR. ITS MANAGING DIRECTOR AND OTHERS

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Advocate for Petitioners : Mr. V. D. Salunke, h/f Mr. Baliram B. Shinde.

Advocate for Respondent Nos.1 to 3 : Mr. Nikhil S. Tekale.

Advocate for Respondent No.4 : Mr. Prashant H. Sukale.

Advocate for Respondent No.5 : Mr. Atul R. Kale.

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

DATE : 06th October, 2021.

PER COURT :

. The petitioner assails the decision of the CIDCO in accepting the tender of respondent No.5 and allotting the work to it.

2 Mr. Salunke, learned counsel for petitioner submits that pursuant to the tender notice, the petitioner filled in the bid. Respondent Nos.4 and 5 were also the other participants in the tender process. The tender notice was for Management of Municipal Solid Waste with Door to Door Collection, Segregation, Transportation, Processing and Disposal including road sweeping at CIDCO Waluj

Mahanagar. The Committee came to the conclusion that the rates quoted by respondent No.4 would not comply with the provisions of the Minimum Wages Act. The rates quoted by respondent No.5 also would not be feasible and as such the petitioner was called for the negotiations. The petitioner submitted rates. In spite of the decision taken by the Committee that it will not be feasible for respondent Nos.4 and 5 to do the work by complying with the provisions of the Minimum Wages Act and the statute, still the decision is taken to allot the work to respondent No.5. The said decision is *mala-fide*. The respondents authorities could not have reviewed the decision. The petitioner had filed writ petition before this Court assailing the same. This Court disposed of the writ petition giving liberty to the petitioner to file an objection. The petitioner filed objection. The said objection is not decided and now the work is said to be allotted to respondent No.5 after filing the present writ petition. According to the learned counsel, once the petitioner was called for negotiations so also decision was taken that respondent Nos.4 and 5 could not comply with the provisions of the Minimum Wages Act and it will not be feasible for respondent Nos.4 and 5 to carry out the work with the rates quoted, now the respondent authorities could not have turned around and take contrary decision.

respondent No.5, the Committee had nowhere taken a decision that respondent No.5 would not comply with the provisions of the Minimum Wages Act while evaluating the tender. The evaluation was made and on 22nd June, 2021 decision was rightly taken to allot the work to respondent No.5. Respondent No.4 was not complying with the provisions of the Minimum Wages Act.

4 We have considered the submissions. The petitioner, respondent No.4 and respondent No. 5 had participated in the tender process as observed above. The petitioner had quoted the rates at -432.29%, respondent No.5 had quoted rates at -6.550 and respondent No.4 had quoted the rates at -10.650. The Evaluating Committee came to the conclusion that respondent No.4 with the quoted rates would not be in a position to comply with the provisions of the Minimum Wages Act. The tender cannot be allotted to a person, who cannot comply with the provisions of the Minimum Wages Act in making payment to the labours. As far as respondent No.5 is concerned, the Evaluating Committee was of the opinion that respondent No.5 would be complying with the provisions of the Minimum Wages Act. As per the Minimum Wages Act, the annual payment of wages/salary would come to Rs.1,04,61,072.12 and respondent No.5 had made provision of Rs.1,05,03,884.66. As such respondent No.5 was complying with the provisions of the Minimum

Wages Act in making the payment of the employees to be engaged in performance of the work. No doubt, the petitioner was also called for negotiations. The rates quoted by respondent No.5 were better and lower than the rates quoted by petitioner and the same were also not against the provisions of the Minimum Wages Act and/or statutory provisions applicable. There is no dispute that respondent No.5 has quoted the rates lower than the rates quoted by the petitioner and the decision has been taken to allot the work order to respondent No.5 for three months and thereafter, evaluation of work would be made.

5 If it is found that the statutory provisions are not being complied with, the principal can always take appropriate steps against the tenderer.

6 The Public Exchequer would be benefited by allotting the tender to a lower bidder and who would be complying with the provisions of the statute.

7 In view of the above, we are not inclined to interfere. The writ petition is dismissed. No costs.

[R. N. LADDHA, J.]

[S. V. GANGAPURWALA, J.]