

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION NO. 2005 OF 2021

BEIGH-BP Sangle	}	
Constructions JV	}	Petitioner
Versus		
The Union of India	}	
and Anr.	}	Respondents

Mr. Mahesh Vishwakarma with Mr. Chandrakant Nanekar and Mr. Santosh M. Kadam for the petitioner.

Ms. Kiran Bhagalia with Mr. Musharat Shaikh for respondent no. 2 (MRVC).

**CORAM :- DIPANKAR DATTA, CJ &
G. S. KULKARNI, J.**

DATE :- SEPTEMBER 21, 2021

PC :-

1. Mumbai Railway Vikas Corporation Limited, the respondent no.2 (hereafter "the Corporation" for short), published "Specific Procurement Notice" inviting request for tenders for the "Work relating to construction of three tunnels by NATM with Ballastless Track in Panvel-Karjat Section in connection with Panvel-Karjat double line Suburban Corridor Project of Mumbai Division of Central Railway in the State of Maharashtra" (hereafter "the said work", for short). In terms of such notice, the interested bidders were required to upload majority of the requisite documents by 14th July 2021; only a few of the documents were, however, required to be tendered

to the Corporation, also before 14th July 2021, either physically or by registered post/speed post/courier. It is not in dispute that the last date and time, i.e., 14th July 2021 by 1.00 pm was extended till 28th July 2021 by 3.30 p.m. There is evidence on record that the petitioner effected on-line uploading of majority of the documents by 12.15 p.m. on 28th July 2021. However, the documents which were required to be tendered either physically or by registered post/speed post/courier were handed over physically to the Corporation on 28th July 2021 well past 3.30 p.m. It was on this ground that the petitioner's bid has not been considered responsive.

2. Aggrieved thereby, this writ petition has been presented seeking, *inter alia*, the following relief: -

"i) To pass an appropriate direction/writ in the nature of Certiorari, mandamus or any other appropriate Writ directing the Respondent No. 2 to remove the remark of *"Total 11 offers uploaded on web site. However only 10 bidders submitted original documents before schedule time of opening of offer. One bidder i.e. BEIGH-BP SANGLE CONSTRUCTIONS JV has not submitted original document"* from the tender portal of the Respondent No. 2 and consider and decide the fate of the technical and financial bid of the Petitioner on Merits.

(ii) To pass Interim, ad-interim order/direction restraining the Respondent no. 2 from proceeding in any manner in the said Tender ID "2021 MRVC 626036 1" titled as "Tunnels By NATM In Panvel-Karjat Section" during the pendency of this Petition."

3. The reason for belated physical submission of few of the documents is pleaded by the petitioner in paragraph 6 of the writ petition. According to it, because of inclement weather together with heavy rains and vehicular traffic, the documents

could not be tendered to the Corporation by the time stipulated in the corrigendum.

4. Appearing in support of the writ petition, Mr. Mahesh Vishwakarma, learned advocate submits that it was due to reasons beyond the control of the petitioner that few of the documents, which were required to be tendered in physical form, could not be reached to the Corporation on time and having regard to the fact of a global tender having been floated by the Corporation for the said work, where maximum participation would expand the zone of consideration and provide the Corporation with a larger pool of bidders to choose from, the Court ought to direct the Corporation to condone the delay in physical submission of few of the documents.

5. The respondents have not been called upon to answer.

6. It is not in dispute that the petitioner is a registered partnership firm having its registered office at Nashik. The road distance between Nashik and Mumbai via NH-160 is approximately 166.2 km. We have found from the Google map that it takes roughly 4 hours 38 minutes to reach Mumbai from Nashik. Although such map does not specifically say as to whether the time of 4 hours 38 minutes would be taken by a person at any given point of time during the day, drawing from experience it can reasonably be inferred that if the petitioner's representative started from Nashik around 12.15 p.m. after uploading the requisite documents, as pleaded in paragraph 6, he could by no stretch of imagination reach

Mumbai by 3.30 p.m. even if the weather and road conditions were perfect. If indeed the petitioner was interested in participating in the process of tender, it ought to have been diligent and not wait till the last date to upload majority of the documents and, thereafter, to depute its representative to take the other documents to be tendered in physical form to the Corporation by 3.30 p.m. It is by now well-established that the Writ Court does not come to the aid of a tardy, indolent and lethargic litigant.

7. There is no merit in the writ petition. Accordingly, the same stands dismissed. There shall be no order as to costs.

SALUNKE
J V

Digitally signed
by SALUNKE J V
Date: 2021.09.24
10:12:56 +0530

(G. S. KULKARNI, J.)

(CHIEF JUSTICE)