

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

WRIT PETITION NO. 1000/2021.

Maroti Bandu Rekulwar. Petitioner.

-VERSUS-

1.The State of Maharashtra and others. Respondents.

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Shri F.T. Mirza, Advocate for the Petitioner.

Ms. K. Deshpande, Assistant Government Pleader for the Respondents.

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**CORAM : NITIN JAMDAR AND
ANIL S. KILOR, JJ.**

DATE : 22 FEBRUARY 2021.

Heard the learned Counsel for the Parties.

2. The Petitioner has questioned the rejection of his bid pursuant to an auction notice dated 1 December 2020 for auction of 20 sand ghats in Yavatmal District for the year 2020-21. The Petitioner has also challenged the public notice for re-auctioning of the said sand ghats vide notice dated 11 February 2021, and in the alternative has sought refund of earnest money deposit (EMD).

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3. It is the case of the Petitioner, that the Petitioner pursuant to the notice dated 31 December 2020, had participated in the on-line auction. The offset price was Rs.56,32,000/- and earnest money deposit of 25% was Rs.14,08,125/-. It is the case of the Petitioner that in the said e-auction, the Petitioner had submitted his bid of Rs.61,25,000/-, however, due to an error an additional zero was added, making the bid to Rs.6,12,50,000/-. The Petitioner has stated that he attempted to reverse the error, but, was unsuccessful. The Petitioner made a representation on the same day for correction, and a response was received wherein the said error was carried forward.

4. Be that as it may, now in the re-auction, the Petitioner is desirous of participating and the last date of submitting the bid is today in the evening. The learned Counsel for the Petitioner submits that the Petitioner is a registered bidder, and it is not possible for the Petitioner to again re-submit the earnest money deposit, and the same may not be forfeited and it be adjusted so that the Petitioner can participate in the re-auction.

5. The fact that the Petitioner has deposited earnest money appears from the document annexed to the petition. It is not clear as to whether this methodology of carrying forward of the EMD from the earlier auction to the next auction is contemplated under the policy laid down. However, considering the peculiar facts of the case, where it appears to be a case of an error and that there is no time left today to carry out the formality of return and resubmit of the EMD, according

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to us, it will be appropriate if we declare that the Respondents have returned the earnest money deposit to the Petitioner from the earlier auction and that the Petitioner has deemed to have deposited the same with the Respondents, so that the Petitioner can participate in the re-auction.

6. Accordingly, we dispose of the Writ Petition declaring that the Petitioner has submitted earnest money deposit of 25% of the upset price of Rs.14,08,125/-, so that the Petitioner can participate in the auction declared on 11 February 2021. We make it clear that we have proceeded on the basis of the statement of the Petitioner that the Petitioner apart from the above aspect is qualified to submit the bid, but, we leave these aspects to be considered by the Respondents.

7. Copy of this order be furnished to the learned Counsel for the parties to act upon.

(ANIL S. KILOR, J)

(NITIN JAMDAR, J)

Rgd

**Rakesh
Dhuriya**

Digitally signed
by Rakesh
Dhuriya
Date:
2021.02.22
14:06:08 +0530