

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

WRIT PETITION NO. 2788 OF 2021

(M/S. D.S.FURNISHERS, WARDHA...VS..NARKHED MUNICIPAL COUNCIL & OTH.)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri S.K.Bhoyar, Advocate for Petitioner.
Shri N.R.Patil, A.G.P. for Respondent No. 2.

CORAM : SUNIL B. SHUKRE AND
ANIL S. KILOR, JJ.

DATED : AUGUST 09, 2021.

1. Heard.
2. By this petition, the petitioner has questioned award of contract to respondent No.3 by accepting his tender which was lowest for the civil and interior work relating to construction of E-Library for Municipal Council, Narkhed. In this tender process, the petitioner was found to be disqualified on the ground that he was not registered as Interior Decorator with the Public Works Department.
3. It is the contention of the learned counsel for the petitioner that in view of the Government Resolution dated 27/09/2018, whenever value of the work to be tendered is more than Rs.1.50 crores, no registration with Public Works Department is required. He invites our attention to Clauses 2.9.1-a & 2.9.1-b of the Government Resolution, which lay down that whenever

the value of the tender work is more than Rs.1.50 crores, the condition of the tenderer being registered with Public Works Department be deleted and substituted by the condition that the tenderer should be only a registered contractor.

4. The objection so taken on behalf of the petitioner cannot be accepted. The Government Resolution dated 27/09/2018 applies only to the works which are tendered by the Public Works Department and not to the works which are tendered by any Municipal Council, much less Municipal Council, Narkhed. The conditions of the tender nowhere show that in addition to these conditions, all the conditions stipulated in the Government Resolution dated 27/09/2018 shall also be applicable. This being the position, no grievance can be raised on the ground that the condition of the contractor being Interior Decorator registered with Public Works Department, is not consistent with what is mentioned in the Government Resolution dated 27/09/2018. The objection is accordingly rejected.

5. The second ground taken in this petition is that the respondent No.3's licence had expired and therefore, he too was disqualified. In the present case, the petitioner himself was disqualified and therefore, it does not lie within his right to question the qualifications of another person to whom the contract has been awarded.

6. If such objections are to be entertained by this Court, it may happen that no public works will be carried out. However, if the petitioner has any grievance in this regard, the petitioner is at liberty to point out the same to the Municipal Council, Narkhed. Apart from what is stated above, such petition cannot be entertained for the reason that the petitioner took part in the tender process and is now challenging wisdom of incorporation of condition No.1, which requires a contractor to be registered with Public Works Department as Interior Decorator. Such flip-flop by the tenderer is not permissible in law.

The petition stands **dismissed**. No costs.

(ANIL S.KILOR,J)

(SUNIL B. SHUKRE,J)

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