

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

WRIT PETITION NO. 8485 /2019

(Rajkumar Shah, Proprietor M/s Raj & Raj Constructions, Pune vs. The State of Maharashtra and others)

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

Court's or Judge's order

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Mr. S.S. Shahane, Advocate for the petitioner
Mr. S.G. Jagtap, Advocate for respondent nos. 1(a) to (e)

**CORAM : SUNIL B. SHUKRE &
ANIL L. PANSARE, JJ.**

DATED : 14th December, 2021.

1. Heard.

2. Learned counsel for the petitioner submits that although there is no letter of acceptance issued in favour of the petitioner, regarding the bid submitted by the petitioner in response to the tender notice No.5/2006, there is a departmental Note-sheet which indicates that the bid submitted by the petitioner being the lowest one was approved for acceptance by the Department and, according to him, once such an approval has been granted by the Department, the tender process ought to have been carried forward as per the schedule of the tender notice by the Department and the work order ought to have been issued to the petitioner. He submits that instead of issuing work order in the matter, the respondents cancelled the whole tender process, which cancellation was communicated to the petitioner vide its letter dated 21.03.2018. Now the petitioner is questioning such a decision of the respondents.

3. The petition has been strongly opposed by the learned counsel for the respondents 1(a) to (e), on the grounds that the petition suffers from inordinate delay, for which there is no explanation given and that contractual obligations having arisen in this case, there would lie no writ.

4. We are of the view that there is a great substance in the grounds of objection taken on behalf of the respondents 1(a) to (e) in opposing this petition and whereas there is no force in the submissions made on behalf of the petitioner.

5. The decision to cancel the whole tender process was communicated to the petitioner as far back as in March 2008 but, the petitioner did not question the same till October 2019, when this petition came to be filed by the petitioner. No proper explanation for such an inordinate delay has been given by the petitioner. Therefore, on the grounds of laches, this petition deserves to be dismissed.

6. There is one more reason why do we find that this petition cannot be entertained by us. There may be approval given at the departmental level for acceptance of the bid of the petitioner. However, such an approval can never result into creation of contractual obligations between the petitioner and the respondent-VIDC. Till the time the obligations were created, the respondent-VIDC had the discretion to either go ahead with the tender process or cancel it and, in the present case, the VIDC took the decision of cancellation of the tender process and this happened when there were not in existence any contractual

obligations between the parties. When tender process is cancelled without there being contractual obligations having come into play, there is nothing in law which would entitle the party like the petitioner to compel an employer of the contractor like VIDC to go ahead with the tender process. In such a case, there is no question of specific enforcement of the contract either.

7. In the result, we find that this petition being not maintainable, deserves to be dismissed. The same is dismissed summarily. No costs.

JUDGE

JUDGE

sahare