

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

WRIT PETITION NO.8400/2018

Ashish Satyanarayan Jajoo, Akola

Vs.

State of Maharashtra through its Secretary, Department of Water Resource,
Mantralaya, Mumbai and ors.

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri A.C.Dharmadhikari, Advocate for petitioner.
Shri A.M.Kadukar, Assistant Government Pleader for respondent Nos. 1 and 4.
Shri Nilesh Gaidhane, Advocate for respondent nos. 2 and 3.
Shri H.Gadhia, Advocate for respondent no.5.

CORAM :- A.S.CHANDURKAR AND G.A.SANAP, JJ.

DATED :- DECEMBER 22, 2021.

P C.

Rule. Rule made returnable forthwith. Heard the learned counsel for the parties.

The challenge raised in this writ petition is to the communication dated 06.12.2018 by which the bid submitted by the petitioner's-firm has been stated to be non-responsive in view of the fact that it had offered performance security in the form of fixed deposit receipt instead of demand draft. According to the Tendering Authority this was in violation of Clause 1(B2)(i). Consequently the earnest money deposit came to be forfeited.

During the pendency of the writ petition, the petitioner has filed an additional affidavit in which it was stated that the petitioner was willing to furnish demand draft towards the amount of performance security which could be then considered by the Tendering Authority. Accordingly on 18.12.2021 the petitioner has furnished demand draft for an amount of Rs.7,72,500/- with the respondent no.2.

The learned counsel for the respondent no.2 submits that pursuant to the affidavit sworn by the Executive Engineer, the respondent no.2 has accepted the said demand draft in compliance of aforesaid clause. Consequently the performance security that was required to be furnished by the petitioner stands accepted. The learned counsel for the respondent no.2 further submits that one of the bidders that is the respondent no.5 has withdrawn from the fray. Shri H.R.Gadhia, learned counsel for the respondent no.5 however submits that he has no instructions in that regard.

Be that as it may, since the respondent no.2 has accepted the demand draft from the petitioner in lieu of performance security, the purpose of filing the present writ petition stands served.

In view of aforesaid, the impugned order dated 06.12.2018 now does not survive. It is accordingly set aside. Rule is made absolute in aforesaid terms. No costs.

(G.A.SANAP, J.)

(A.S.CHANDURKAR, J.)

Andurkar..