

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 2764 OF 2022

Alishan Constructions through its
Proprietor Kamal Mohammas Shaikh .. Petitioner

Versus

The State of Maharashtra and another .. Respondents

Shri Imrankhan Guftar Khan Durrani, Advocate for the
Petitioner.

Shri S. B. yawalkar, Addl.G.P. for Respondent Nos. 1 and 2.

**CORAM : S. V. GANGAPURWALA AND
S. G. DIGE, JJ.**

DATE : 07TH MARCH, 2022.

FINAL ORDER :

. Pursuant to the tender notice the petitioner had filled in the tender. The petitioner was the only tenderer, who is qualified. The petitioner had quoted Rs. 5,000/- more than upset price. Subsequently, re-tendering has been resorted to. The learned advocate for the petitioner submits that, the petitioner had quoted the price more than the upset price. In view of that, the tender of the petitioner ought to have been accepted. As per clause 17(A)(iv), it is only if the amount received is less than the upset price or no bid is received, then only re-tendering can be conducted. According to the learned advocate, the purpose of auction is not to collect the revenue, but to consider environmental aspects. The petitioner is not intimated about the fact that his tender is not accepted and have directly issued retender. Other tenders are accepted and only petitioner is

singled out. According to the learned counsel Article 14 of the Constitution is violated.

2. The learned Assistant Government Pleader for respondents submits that, only one bid was received. There was no competition. The fresh tender is issued. The petitioner can participate in the fresh tender process.

3. No doubt, petitioner can participate in the tender process as according to the learned A. G. P. last date for filling the tender is 08th March, 2022. It is a fact that, the petitioner was the lowest bidder. No other participant had filled in its tender. The expected price was not received, according to the respondents as such retender is done. It is not case of favoritism to any party. In case, in the fresh tender if, the amount quoted as per earlier tender is not received, petitioner would not be liable for short fall.

4. As the policy decision has been taken to resort for retendering and no malafides are alleged, we are not inclined to entertain the writ petition. The writ petition is disposed of. No costs.

5. The previous deposit of the petitioner which is still with the authority shall be considered in the fresh tender process.

[S. G. DIGE, J.]

bsb/March 22

[S. V. GANGAPURWALA, J.]