

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.8324 OF 2022

M/S A. K. CONSTRUCTION THROUGH ITS PARTNER
SAYYED KHAYYUM AMIRSAHB
VERSUS
THE STATE OF MAHARASHTRA THROUGH THE
SECRETARY AND OTHERS

...
Advocate for the Petitioner : Shri Venjane Tukaram M.
AGP for the Respondents/State : Shri P.K. Lakhotiya
...

CORAM : RAVINDRA V. GHUGE
&
ARUN R. PEDNEKER, JJ.

DATE :- 29th August, 2022

Per Court :-

1. The petitioner has put forth prayer clause B as under:-

“B) *By issuing writ of mandamus or any other writ in the like nature, be pleased to direct the respondents not to insist the condition mentioned in clause No.XI(c) (iv) (v) (vi), and to qualify the petitioner in technical bid for the work of Development of Ravindranath Tagore Nagar Garden at Latur, Tq. And Dist. Latur.*”

2. The conditions that the petitioner prays for being declared as nominal or insignificant, are as under:-

“XI. Qualification criteria:-

- c) Satisfactorily executed in any One Year of last seven years i.e. 2015-2016, 2016-2017, 2017-2018, 2018-2019, 2019-2022, 2020-2021, 2021-2022 following minimum quantities of work. (information to be given only in proforma of Statement No.VI on page No.38):-*
 - i)*
 - ii)*
 - iii)*
 - iv) Dentre calamus stocksii Bamboo Pole Walls = 149.00 Running Metre*
 - v) Bamboo Shingle roofing = 10.00 Square Metre*
 - vi) Preparing Lawn = 430.00 Square Metre.”*

3. It is strenuously canvassed that the above three conditions are insignificant and nominal. The petitioner can succeed in getting the work order by being declared as a competent qualified bidder. The said work can be got done even from somebody else. The authorities have deliberately introduced the said conditions to disqualify bidders, like the petitioner and favour some other bidders from outside Latur as no bidder from Latur has the experience of the said work.

4. The learned AGP submits that the Public Works Department (PWD) has issued the e-tender notice No.B-1-LTR-01/01 for 2022-2023. The project involves the total cost of Rs.1,83,59,744/- for developing Ravindranath Tagore Nagar Garden at Latur. The conditions, which the petitioner desires to

be declared as being insignificant or nominal, are the part of the entire project. The PWD has not floated the project by splitting it into multiple smaller projects for different types of works. A comprehensive project has been floated and that any bidder, who is competent to take the project to fruition, is to be selected subject to the terms and conditions of the e-tender document.

5. We find from the contentions of the parties and the pleadings of the petitioner that the clauses, which the petitioner desires to be declared as being insignificant or nominal, are infact an integral part of the project. A single bidder is to be allotted the project after scrutiny of the bids and subject to the conditions that are made applicable. Deleting these works from the main project and allotting the project to the petitioner, cannot be countenanced since it would amount to the High Court splitting the project into portions and declaring that, those works under the project, which the petitioner is not capable of performing, are insignificant. This would amount to over indulgence.

6. The petitioner has failed in pointing out to us that those three conditions are unnecessary or that they are not a part of the project and that they have nothing to do with the said

project. We find that the three types of work to which the petitioner takes an exception as he does not have the expertise, are a part of the project.

7. In view of the above, this Writ Petition being devoid of merit is, therefore, dismissed.

kps (ARUN R. PEDNEKER, J.) (RAVINDRA V. GHUGE, J.)