

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 1176 OF 2022

J. M. Mhatre Infra Pvt. Ltd Thr. Assi. Business Manager Mukund Koli	...Petitioner
Versus	
The Honorable Commissioner & Ors	...Respondents

Shri. Nikhil Sakhardande, Sr. Advocate i/b. Adv. Avinash H. Fatangare for the Petitioner.
Mr. Sandeep Marne for the Respondent Nos. 1 & 2.

**CORAM : A. A. SAYED &
 ABHAY AHUJA, JJ**

**DATED : 8th FEBRUARY, 2022
 (Through VC)**

P.C.:

The Petitioner is essentially aggrieved by the tender condition No. 2.2.2.2 in the tender document floated by the Respondent-Corporation for construction of flyover. The Petitioner was disqualified in the technical bid. In paragraph no. 23 of the Writ Petition the Petitioner, has stated that “the alleged experience in work of segmental super structure is inserted in the contract to reduce the competition and to favour particular bidders”. It is an admitted position that the Petitioner had not participated in the pre-bid meeting raising any grievance in respect of the aforesaid tender condition. In our view, having

participated in the tender process without raising any grievance in respect of said tender condition, it is now not open to the Petitioner to raise grievance about the same after it was held to be disqualified in the technical bid. It is well settled that the Tenderer, who is author of the tender document is the best judge to lay down the tender conditions.

2. The bids were opened on 9th April, 2021. The letter dated 30th April, 2021 [Exhibit-J] (colly) at page no. 629 of the Petition] addressed by the Petitioner to the Commissioner, Navi Mumbai Municipal Corporation, clearly brings out that the Petitioner was well aware that his technical bid was rejected. The present Petition has, however, been filed only on 27th January, 2022, after the Respondent No. 3 have been held to be successful bidder after the financial bids were opened.

3. In the circumstances, we are not inclined to exercise the extraordinary writ jurisdiction of this Court and entertain the Petition. The Petition is accordingly dismissed. No order as to costs.

(ABHAY AHUJA, J.)

(A. A. SAYED, J.)