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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

VASANT
ANANDRAO
IDHOL

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VASANT
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Date: 2022.11.23
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WRIT PETITION NO.3993 OF 2022

Dharam Ice & Cold Storage

...Petitioner

V/s.

Maharashtra Industrial Development
Corporation & Ors.

...Respondents

WITH

WRIT PETITION NO.5368 OF 2022

Chetan B. Mehta

...Petitioner

V/s.

Maharashtra Industrial Development
Corporation & Ors.

...Respondents

WITH

WRIT PETITION NO.3841 OF 2022

M/s.Satish Hydraulic Co. Pvt. Ltd.

...Petitioner

V/s.

Maharashtra Industrial Development
Corporation & Ors.

...Respondents

Mr.Nikhil Sakhardande, Senior Counsel with Ms.Anaga Sriram and
Ms.Shubhra Swami Paranjape i/b Mr.Sandesh Deshpande for the
Petitioner in the above Writ Petitions.

Ms.Shyamali Gadre with Ms.Harshita Bhanushali and Ms.Jhanvi
Gaikwad i/b Little & Co. for the Respondents in the above Writ
Petitions.

**CORAM : R.D. DHANUKA &
KAMAL KHATA, JJ.**

DATE : 18TH NOVEMBER, 2022.

P.C. :-

1. Rule. Ms.Gadre, learned counsel for the respondents waives service. Rule is made returnable forthwith.

2. By these writ petitions filed under Article 226 of the Constitution of India, petitioners seek a writ of certiorari for quashing and setting aside the impugned office note dated 2nd March, 2022 and seeks a writ of mandamus against the respondents to allot various plots described in prayer clause (a) of the Writ Petition No.3993 of 2022.

3. In pursuance of the public notice inviting tender issued by the respondents on 21st January, 2022 in respect of various industrial / commercial plots and galas situated at all over Maharashtra, the petitioners submitted their bids on 2nd February, 2022. It is the case of the petitioners that the petitioners were held qualified in the technical bid as well as in commercial bid. On 10th February, 2022, the petitioners were declared as the highest bidders in commercial bid and were informed by the respondents by email.

4. It is the case of the petitioners that since no action was taken in respect of allotment of the said plot, the petitioners enquired with the respondents about the allotment of plots / galas. On 2nd March, 2022, the petitioners were informed that since some of the bidders have raised the issue of technical glitch while making an attempt to submit their bids resulting in the system not accepting their

bid documents, the whole process had been rescinded and that fresh tenders would be issued.

5. Mr.Sakhardande, learned senior counsel for the petitioners invited our attention to the email annexed at page 126 of the Writ Petition No.3993 of 2022 and submitted that that the petitioners were informed that the bids of the petitioners were highest in respect of three plots. He submitted that the excuse now given by the respondents that there was technical glitch and as a result thereof, the bids of 6 bidders could not be received by the MIDC is a false excuse. The respondents could not point out any such technical glitch alleged to have been occurred as a result of which some of the other bidders were unable to submit their bids and participate in the tender process.

6. In view of this statement made by the learned senior counsel for the petitioners, we enquired with the learned counsel for MIDC whether any of those six bidders who, according to MIDC could not submit their technical bid, had challenged the action on the part of MIDC with a prayer to cancel the tender process and to accept their bids or to allow them to participate in the tender process, learned counsel for the respondents on instructions fairly stated that no proceedings were filed by any of the bidders, who according to MIDC were unable to submit their bids due to technical glitch. The

respondents could not point out any correspondence or objection from any of those six bidders alleging the technical glitch as a result they could not submit their bid and could not participate in the tender process.

7. We are informed that except those six bidders, who had applied in the tender process, the other bidders have withdrawn their bids and have accepted refund of their earnest money deposits.

8. Since the other bidders have withdrawn their bids and already accepted the refund of the earnest money deposits, the petitioners are the only bidders, who had challenged the action on the part of the respondents in cancelling the tender, we quash and set aside the impugned decision of the respondents in cancelling the tender and restore the tender on file insofar as the petitioners are concerned.

9. The respondents are directed to consider those bids in accordance with the tender conditions and to pass appropriate order within two weeks from today.

10. The above writ petitions are allowed in aforesaid terms. Rule is made absolute. There shall be no order as to costs.

(KAMAL KHATA, J.)

(R.D. DHANUKA, J.)