

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

...

WRIT PETITION NO. 989 OF 2022

Sarfaraz s/o Amil Godil

..Petitioner

versus

Municipal Council, Sakoli and another

..Respondents

...

Mr. Virat Mishra, Advocate for Petitioner

CORAM: NITIN JAMDAR &
ANIL L. PANSARE,JJ
DATED : 23 February 2022.

P.C. :

The Petitioner has sought to question the rejection of Petitioner's technical bid and has sought further direction to declare the Petitioner as a successful bidder, declare the Respondent No.4-L-1 bidder as not eligible and has questioned the tender process initiated by Respondent-Municipal Council.

2. The Respondent-Municipal Council had issued an advertisement and invited tenders for carrying out certain public works. The Petitioner submitted documents, however, did not submit one of the documents i.e. an Inspection Report of the year

2020-21 for Employees' Provident Fund. It is the ground on which Petitioner's technical bid was rejected.

3. The learned counsel for the Petitioner submitted that though the Petitioner did not have the report, the Petitioner has paid the Provident Fund which can be demonstrated. The learned counsel also relied upon the Government Resolution dated 27 September 2018 to contend that the requirement of report is a formality and it is a minor condition which ought to have been waived.

4. The submission cannot be accepted as the terms and conditions have been listed in the tender notice pursuant to which the Petitioner submitted his tender. Clause 11 of the Terms and Conditions at more than two places, had referred to the mandatory nature of compliances in respect of Employees' Provident Fund. The clause categorically states that the Inspection Report of the year 2020-21 is mandatory. Once a specific stipulation is made in the condition that the report is mandatory, by relying on Government Resolution it cannot be said that the Respondent-Municipal Council meant it to be directory. The condition is specifically states otherwise. Since this mandatory condition has not been complied with by the Petitioner, no fault can be found with the rejection of the Petitioner's technical bid.

5. The Writ Petition is accordingly rejected.

[ANIL L. PANSARE,J.]

[NITIN JAMDAR,J.]

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