

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR
WRIT PETITION NO. 1345 OF 2022

Atul Ganeshrao Shirbhate

-- Petitioner/s

Vs.

Divisional Commissioner/ Regional Director,
Municipal Administration, Amravati & Ors.

-- Respondent/s

Ms. D.V. Sapkal, Advocate for the Petitioner.

Mr. M.I. Dhatrak, Advocate for Respondent No.2.

**CORAM : NITIN JAMDAR &
ANIL L. PANSARE, JJ.**

DATE : 14 MARCH 2022

P. C. :

Heard learned Counsel for the parties.

2. The Respondent – Council on 14 November 2021 and 18 November 2021 had issued e-tender notices in respect of the work to be carried out under the scheme ‘Special Grant Scheme for Special Work’, the work being of civil work. The Petitioner had submitted a tender pursuant to the notice issued by the Respondent – Municipal Council, Chandur. The Petitioner’s bid was rejected as the Petitioner had not annexed the necessary documents along with the bid.

3. The Petitioner filed a revision under Section 318 of the Maharashtra Municipal Councils, Nagar Panchayats And Industrial

Townships Act, 1965, which was rejected by the Divisional Commissioner.

4. The Petitioner has challenged the order rejecting the Petitioner's technical bid and rejecting the Appeal, by way of this petition. The Petitioner has joined successful tenderer as party Respondent.

5. Learned Counsel for the Petitioner submitted that though the Petitioner had not annexed Appendix – A, the undertaking, the Petitioner should have been given an opportunity to remove this shortfall. Learned Counsel for the Petitioner has relied upon the Government Resolution dated 17 September 2019, more particularly, clause (1) thereof.

6. Learned Counsel for Respondent No.2 submitted that as the Petitioner had not annexed the undertaking and that the work order is already issued, no interference in writ jurisdiction is warranted. It was submitted that since the Petitioner had not annexed the necessary documents, his technical bid was rightly rejected.

7. The Petitioner had admittedly not annexed Appendix – A, an undertaking to the bid. This is an undertaking to state that all documents submitted in bid are true and all the information stated therein is correct, and if it is found false, the Petitioner would be liable for action under the Indian Penal Code and the relevant laws. This document is important, as based upon this undertaking the

veracity of all the Petitioner's assertions would be accepted by the Respondents. Therefore, the understanding cannot be considered as mere a procedural formality.

8. As regards giving an opportunity to the Petitioner, the Tender conditions made it clear that annexing this document would be necessary. There was no reason whatsoever not to annex this undertaking. The interpretation of the Government Resolution, relied upon by the Petitioner in matters of tender of public work; cannot be that the bidders can be negligent at will and yet the Authorities are obliged to call upon them to remove the lacunas. If such a duty is imposed, it will be unfair to those bidders who are qualified and have submitted all the documents diligently. Also, the clause relied upon by the Petitioner refers to the doubt in the mind of the Authorities in respect of the documents already annexed to the tender, and not to the absence thereof.

9. The Petitioner had not annexed the undertaking and that other successful tenderer had annexed all the documents and the work order is already been issued in December – 2021.

10. Considering these facts we do not find that any case for interference is made out.

11. The Writ Petition is rejected.