

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

WRIT PETITION NO. 2448/2021

M/s R.K. Sancheti,
A Registered Partnership firm, having its
Registered office at House No.3474, D3,
Satyasai Apartment, Near Somalwada, Khamla,
Nagpur 440 025, through its partner Rajendra
Kisanlal Sancheti, aged about 67 years.

PETITIONER

-VERSUS-

1. State of Maharashtra,
Through Public Works Department,
Mantralaya, Madam Cama Road, Mumbai 400 032.
2. Superintending Engineer,
Public Works Circle, Gadchiroli,
District Gadchiroli.
3. Executive Engineer,
Public Works Department Division No.1,
Gadchiroli.
4. M/s Atasha Ashirwad Builders,
Plot No.144, Ram Nagar, Nagpur – 440 010.
5. Prashant Construction Company,
Gadikhana, Subhedar Lane, Tilak Putala,
Mahal, Nagpur – 440 002.

RESPONDENTS

**WITH
WRIT PETITION NO. 2580/2021**

1. M/s Gouri Construction, A Proprietorship
Firm – through its Proprietor – Shriniwas
S/o Chandradu Pedhabuddi, Aged about
54 years, Occupation : Business, R/o Plot
No.100, Om Nagar, Opposite Wox Cooler,
Koradi Road, Nagpur.
2. Shriniwas S/o Chandradu Pedhabuddi,
Aged about 54 years, Occupation : Business,
R/o Plot No. 100, Om Nagar, Opposite Wox
Cooler, Koradi Road, Nagpur.

PETITIONERS

-VERSUS-

1. State of Maharashtra,
Through Public Works Department,
Madam Cama Road, Mantralaya, Mumbai 400 032.

2. Superintending Engineer,
Public Works Circle, Gadchiroli,
District Gadchiroli.
3. Executive Engineer,
Public Works Department Division No.1,
Gadchiroli, District Gadchiroli.
4. M/s Atasha Ashirwad Builders,
Through its Proprietor – Sanket R. Fuke,
Plot No.144, Hill Top Ambazari, Nagpur.
5. M/s Prashant Construction Company,
through its Director Bhushan D. Samarth,
Prashant Gadikhana, Mahal, Nagpur – 440 002.

OR

Sarvodaya Ward No.4, Near Bhatgirni Road,
Gadchiroli, District Gadchiroli.

RESPONDENTS

Shri Harish V. Thakur, counsel for the petitioner in Writ Petition No.2448 of 2021.
Shri Mohit P. Khajanchi, counsel for the petitioners in Writ Petition No.2580 of
2021.

Shri Chinmay S. Dharmadhikari, counsel for the respondent no.4.
Shri Neeraj R. Patil, Assistant Government Pleader for the respondent nos.1 to 3
in Writ Petition No.2448 of 2021.
Ms Nivedita P. Mehta, Assistant Government Pleader for the respondent nos.1 to
3 in Writ Petition No.2580 of 2021.

CORAM : A. S. CHANDURKAR AND URMILA JOSHI-PHALKE, JJ.

DATE ON WHICH ARGUMENTS WERE HEARD : 12TH JULY, 2022.

DATE ON WHICH JUDGMENT IS PRONOUNCED : 27TH JULY, 2022.

JUDGMENT (PER : A.S. CHANDURKAR, J.)

In view of notice for final disposal issued earlier, the learned counsel for the parties have been heard at length by issuing **RULE** and making it returnable forthwith. Since the challenge raised in both the writ petitions pertains to the tender notice dated 18.02.2021 the writ petitions are being decided by this common judgment.

2. The facts relevant for considering the challenge raised in the writ petitions is that on 18.02.2021 the respondent nos.2 and 3 issued a tender notice inviting offers for construction of High Level Submersible Major Bridge. The said work was to be completed within a period of fifteen calendar months including monsoon. Clause 1.4.13 of the tender notice prescribes the post qualification criteria. It was necessary for a bidder to furnish details in the form of second copy of the original certificate of having successfully completed one work of bridge, each work costing not less than Rs.427.05 Lakhs updated to current cost during last five years and the current year. Other options therein were also provided which are not very material for the present purpose. Eight bids were received in response to the said tender notice. The Technical Evaluation Committee considered the said bids in the meeting held on 05.07.2021 and found that only two bidders were eligible in the first stage of the tender process which pertained to the technical bid. The said two bidders were held eligible to participate in the further process involving the financial bid. The bids of the other bidders were not accepted and treated as non-responsive and therefore not eligible to participate in the further process. Being aggrieved, two of the unsuccessful bidders have challenged the rejection of their bids.

3. Writ Petition No. 2448 of 2021 has been preferred by M/s R.K. Sancheti – (for short, 'RKS'). Insofar as its technical bid is concerned, the

Technical Evaluation Committee found that it had not undertaken the minimum required work in the preceding five years. While the requirement was performance of work valued at Rs.427.05 Lakhs, RKS had undertaken work only of Rs.397.41 Lakhs. It was also noted that the work undertaken by it was pursuant to subletting of a work order that was issued to M/s Khare and Tarkunde Private Limited and that work involved the construction of Box Cell, Retaining Wall and Work of Embankment. On that count, it was found by the Technical Evaluation Committee that the requirements prescribed in the tender notice were not met by it.

Writ Petition No.2580 of 2021 has been preferred by M/s Gouri Constructions (for short, 'GC'). As regards its bid, the Technical Evaluation Committee found that as per the communication dated 20.04.2021 issued by the Executive Engineer, Public Works Department, it was indicated by GC that the work undertaken by it was of the value of Rs.160.55 Lakhs. However, there were no supporting documents to substantiate the same and hence GC was called upon to submit the requisite documents by 22.04.2021. Despite that GC had failed to submit the necessary documents and on that count it was held ineligible thus treating its bid to be non-responsive.

4. Shri Harish Thakur, learned counsel for RKS submitted that the Technical Evaluation Committee erred in holding the bid of RKS to be

non-responsive. The reasons assigned by the Committee for disqualifying it were not in consonance with the terms stipulated in the tender notice. It had been observed that the Box Cell work executed by RKS was valued at Rs.328.44 Lakhs which came to Rs.397.41 Lakhs as per the updated cost. This value was less than 80% of Rs.427.05 Lakhs that was stipulated in Clause 1.4.13. The said Committee excluded the cost of embankment work executed by RKS as a result of which the value of the work undertaken was reduced. If the cost of embankment undertaken by RKS was considered, it would be clear that the work executed by it was exceeding Rs.427.05 Lakhs as stipulated. Similarly, the work for the approach road that was also undertaken by RKS pursuant to subletting of the work by M/s Khare and Tarkunde Infrastructure Private Limited was also not considered. Inviting attention to the document granting permission to RKS to carry out the aforesaid work in question it was submitted that the Committee could not have excluded some of the works carried out by it. The bid submitted by RKS was lower than the bid submitted by the respondent no.5 and therefore the Committee was not justified in treating the bid of RKS as non-responsive. RKS had satisfied all necessary requirements and infact the successful bidder M/s Atasha Ashirwad Builders (for short, 'AA') did not satisfy the requirements of Clause 1.4.14. It was thus submitted that by excluding RKS from further consideration and illegally holding it to be disqualified/non-responsive, the Authorities had acted arbitrarily and contrary to the terms prescribed

in the tender notice. In support of his submissions, the learned counsel placed reliance on the decisions in *National High Speed Rail Corporation Limited Versus Montecarlo Limited & Another* [2022 SCC OnLine SC 111], *Afcons Infrastructure Limited Versus Nagpur Metro Rail Corporation Limited & Another* [(2016) 16 SCC 818], *M/s N.G. Projects Limited Versus M/s Vinod Kumar Jain & Others* [2022 LiveLaw (SC) 302], *Jai Bholenath Construction Versus The Chief Executive Officer, Zilla Parishad, Nanded & Others* [2022 LiveLaw (SC) 542], *Reliance Energy Ltd. & Another Versus Maharashtra State Road Development Corpn. Ltd. & Others* [(2007) 8 SCC 1] and *Olga Tellis & Others Versus Bombay Municipal Corporation & Others* [AIR 1986 SC 180] and submitted that a case had been made out to interfere in writ jurisdiction.

Inviting attention to the order dated 14.07.2021 passed in the writ petition wherein it was recorded that the petitioner had not received back the earnest amount deposited, it was submitted that said statement was made on the basis of the instructions then received. It was stated that the earnest amount had been received by RKS prior to passing of that order and by filing a rejoinder dated 29.03.2022 apology had been tendered for making that statement. Similarly, the explanation was also offered as regards the circumstances in which such statement was made. It was thus submitted that said aspect may not be held against the petitioner in Writ Petition No.2448 of 2021.

5. Shri Mohit Khajanchi, learned counsel for GC submitted that the Technical Evaluation Committee did not give due opportunity to the said bidder to furnish all requisite documents that were infact tendered pursuant to the communication dated 20.04.2021. Inviting attention to Clause 1.4.14 of the tender conditions, it was submitted that in accordance thereto GC had submitted all requisite documents and its bid ought to have been considered in light of the documents submitted subsequently. On 20.04.2021 the Executive Engineer had issued a communication to GC calling upon it to furnish documents in terms of Clause 1.4.14 of the Tender conditions with regard to work done and work in hand valued at Rs.160.55 Lakhs. By addressing an e-mail message to the Executive Engineer the said documents were immediately submitted on 20.04.2021 at 6.00 p.m. Attention was invited to the document at Page No.296 of the record in that regard. The learned counsel also referred to the averments in paragraph 7 of the writ petition and it was submitted that these pleadings had not been denied by the Authorities. It was submitted that on 07.06.2021 GC again submitted all relevant documents as demanded and required under Clause 1.4.14. The said documents having been uploaded within the prescribed time the same were not taken into consideration. On the contrary on 05.07.2021 the Technical Evaluation Committee illegally held the bid of GC to be non-responsive and thus not eligible for having submitted the said documents belatedly. Though the relevant documents were present and available for

consideration by the Technical Evaluation Committee on 01.07.2021 the same were not taken into consideration despite the fact that the said Committee considered all the bids on 05.07.2021. In view of Clause 14 of the detail tender notice, all Circulars, Notifications and Resolutions in the matter of submission of bids were applicable and binding on the Authorities. In view of said Clause the Government Resolution dated 27.09.2018 and especially Clause 4.5.2 thereof was applicable. As per the said Clause while opening the technical bid it was necessary for the Technical Evaluation Committee to have considered all documents on record and not disqualified a bidder on account of minor and irrelevant deficiencies. It was further submitted that the post qualification criteria as prescribed had been duly satisfied by GC as noted by the Technical Evaluation Committee. Since GC had offered rates which were much lower than the rates at which the offer of the successful bidder was accepted there was involvement of public interest and hence a case for interference under Article 226 of the Constitution of India was made out. Since non-consideration of the documents submitted by GC was without any basis and thus arbitrary it was clear that the bid of GC was disqualified on irrelevant grounds and hence this Court ought to interfere in writ jurisdiction. In support of the aforesaid submissions, the learned counsel placed reliance on the decisions in *Ramana Dayaram Shetty Versus International Airport Authority of India & Others* [(1979) 3 SCC 489], *Mahabir Auto Stores & Others Versus Indian Oil Corporation &*

Others [(1990) 3 SCC 752], Tata Cellular Versus Union of India [(1994) 6 SCC 651], Sterling Computers Limited Versus M/s M & N Publications Limited & Others [(1993) 1 SCC 445], Proactive In and Out advertising Pvt. Ltd. Versus Pune Mahanagar Parivahan Mahamandal Ltd. & Others [2018(6) Mh.L.J. 561], Central Coalfields Limited & Another Versus SLL-SML (Joint Venture Consortium) & Others [(2016) 8 SCC 622], Maa Binda Express Carrier & Another Versus North-East Frontier Railway & Others [(2014) 3 SCC 760], Indian Railway Catering and Tourism Corporation Limited & Another Versus Doshion Veolia Water Solutions Private Limited & Others [(2010) 13 SCC 364], Mihan India Ltd. Versus GMR Airports Ltd. & Others [2022 SCC OnLine SC 574] and Writ Petition (L) No.15548 of 2022 [Tata Motors Ltd. & Another Versus The Brihan Mumbai Electric Supply & Transport Undertaking (BEST) & Another] to urge that the said petitioner was entitled for appropriate relief.

6. Shri Neeraj Patil, learned Assistant Government Pleader appearing for the Authorities opposed the submissions made by the learned counsel for RKS. According to him, the Technical Evaluation Committee applied its mind to all the relevant aspects and after considering the conditions prescribed by the tender notice proceeded to hold the bid of RKS to be non-responsive. He referred to the affidavit-in-reply filed by the Executive Engineer in that regard. He submitted that as per the tender notice the work in question was with regard to construction of High Level

Submersible Major Bridge and therefore the Technical Evaluation Committee was justified in not taking into consideration the work undertaken by RKS with regard to the approach road. The work to be carried out was specialized and the experience of the bidder in carrying out the work of approach road was not found to be very material. RKS had merely acted as a sub-contractor for undertaking the work of the approach road in the matter of construction of a major bridge which work was to be undertaken by M/s Khare and Tarkunde Infrastructure Private Limited. It was for that reason that the Committee found that the work undertaken by RKS was only to the extent of Rs.328.44 Lakhs updated to Rs.397.41 Lakhs which was less than 80% of the value prescribed. There was nothing arbitrary in treating RKS to be not qualified. He invited attention to the partnership-deed executed by the partners of RKS dated 01.04.2017 which indicated that the said partnership commenced from that date. It was thus clear that RKS had no activity prior to 01.04.2017. It was further submitted that after the technical bid of RKS was rejected the earnest amount was refunded to it on 07.07.2021 much prior to filing of the present writ petition on 13.07.2021. As per the bank details available with the Authorities, the amount of earnest deposit was credited in the account of RKS prior to filing of this writ petition. It was thus submitted that the Technical Evaluation Committee despite taking into consideration the work undertaken with regard to Box Cell Bridge, Retaining Wall and Toe Wall with a view to give a fair chance to RKS to

clarify found that the value of the work carried out was less than what was prescribed. It was thus submitted that no case for interference was made out.

Ms Nivedita Mehta, learned Assistant Government Pleader opposed the submissions made by the learned counsel for the GC. It was submitted that GC included documents pertaining to the year 2015-16 with a view to indicate that it satisfied the prescribed tender conditions. Despite the communication dated 20.04.2021 calling upon GC to furnish requisite documents as demanded no steps were taken by GC within the prescribed period. Referring to the affidavit filed by the Executive Engineer it was urged that the time limit for submitting the documents was specifically mentioned to be till 22.04.2021. As GC failed to submit the relevant documents by that date and submitted the same after more than two months on 07.06.2021 the Technical Evaluation Committee was justified in concluding that it was not duly qualified to participate in financial bid. It was thus submitted that the technical bid of GC was rejected in terms of the conditions stipulated in the tender notice itself and there was no case made out to interfere in writ jurisdiction.

7. Shri. Chinmay Dharmadhikari, learned counsel for the successful bidder – AA opposed the submissions made by the learned counsel for the unsuccessful bidders. Insofar as the bid of RKS was concerned it was submitted that though the unsuccessful bidders were informed about their

disqualification on 07.07.2021 the writ petition as filed by RKS was not amended till February-2022 for challenging the work order issued to AA. The challenge made subsequently was only by way of an afterthought and thus belated. He submitted that as of date about 85% of work under the work order had been completed and hence considering this aspect the Court ought to be slow in interfering with the issuance of the work order dated 14.07.2021. It was further submitted that the Technical Evaluation Committee rightly excluded the work with regard to approach road and embankment since the same was not relevant in the present context. The bridge work that was required to be undertaken by a bidder ought to be similar to what was sought to be allotted under the tender notice. Even otherwise, the work of the Box Cell Bridge undertaken by RKS was valued only at Rs.328.44 Lakhs which was much below the requirement prescribed. The Technical Evaluation Committee after making necessary enquiries with RKS concluded that it was not technically qualified for further participation in the tender process. The explanation furnished by RKS on 08.07.2021 was not liable to be considered and the same did not demonstrate that the technical bid of RKS was arbitrarily rejected. No interference with that challenge was warranted.

As regards the rejection of the bid of GC was concerned it was submitted that as per Clause 1.4 of the tender conditions all relevant documents were required to be submitted in Envelope No.1. As per the documents submitted by GC it had only placed on record of the Tender

Authorities various work orders issued to it. There were no documents to indicate completion of such work by GC. In that backdrop when it was found that GC had not submitted relevant documents/same were not sufficient to proceed with its technical bid, a communication dated 20.04.2021 was issued to it. It was submitted that the document at Page 296 of Writ Petition No.2580 of 2021 was an e-mail sent by the Public Works Department to GC and not the other way round. The specific stand taken by the Executive Engineer as well as AA in their respective affidavits in that regard had not been denied or controverted by GC. Moreover in the communication dated 07.06.2021 issued by GC to the Executive Engineer there was no reference to the alleged e-mail claimed to have been sent by GC on 20.04.2021. The summary of the documents was uploaded on 30.06.2021 and it is thereafter that on 01.07.2021 GC had responded without any certificate of the Executive Engineer. The Technical Evaluation Committee in that backdrop rightly found that GC had failed to submit the requisite documents to hold it eligible in the technical bid for further participation. It was thus submitted that since the decision of the Technical Evaluation Committee could not be said to be arbitrary nor tainted with *mala fides* there was no reason to interfere in writ jurisdiction. In these facts it would not be open for the Court to sit in appeal over the decision of the Technical Evaluation Committee. To substantiate his contentions while opposing both the writ petitions, the learned counsel placed reliance on the decisions in *Galaxy Transport*

Agencies, Contractors, Traders, Transports and Suppliers Versus New J.K. Roadways, Fleet Owners and Transport Contractors & Others [2020 SCC OnLine SC 1035], *N.G. Projects Limited Versus Vinod Kumar Jain & Others* [2022 SCC OnLine SC 336], *Jai Bholenath Construction Versus The Chief Executive Officer, Zilla Parishad, Nanded & Others* [2022 LiveLaw (SC) 542] and *Tejas Constructions and Infrastructure Private Limited Versus Municipal Council, Sendhwa & Another* [(2012) 6 SCC 464]. It was thus submitted that both the writ petitions were liable to be dismissed.

8. We have heard the learned counsel for the parties at length and we have gone through the documentary material placed on record as referred to by the learned counsel. On giving thoughtful consideration to the respective submissions, we find that there is no case made out for this Court to interfere in writ jurisdiction under Article 226 of the Constitution of India.

9. Before considering the challenge as raised by the unsuccessful bidders it would be first necessary to delineate the scope for interference by the Court under Article 226 of the Constitution of India in matters pertaining to award of tenders. In *Galaxy Transport Agencies* (supra) it has been held by the Hon'ble Supreme Court that the Court should not resort to second-guessing with the decision taken by the Tendering Authority especially in tender matters unless there is arbitrariness or *mala*

fides on the part of the Tendering Authority. The Authority that authors the tender document is considered the best person to understand and appreciate its requirement. The Court would not be in a position to substitute its view in place of the appraisal of the Tender Opening Committee. This position has been also explained in *Afcons Infrastructure* (supra). Yet another facet to be kept in mind is the existence of public interest involved as a consideration of interference in writ jurisdiction. Only if public interest is subserved by interfering that the Court would consider it appropriate to exercise jurisdiction under Article 226 of the Constitution of India. At the same time as held in *Jai Bholenath Construction* (supra) if the successful bidder has been so held to be eligible in flagrant violation of principles of natural justice and fairness in the process of determining the eligibility of tenderers then a case for interference would be made out. It is in the aforesaid backdrop that the challenge as raised by the petitioners would have to be examined.

10. Insofar as the rejection of the technical bid of RKS is concerned it can be seen from the consideration by the Technical Evaluation Committee that the work of construction of a Major Bridge at Gadchiroli had been awarded to M/s Khare and Tarkunde Infrastructure Private Limited. Out of that work a portion of work with regard to construction of Box Cell Bridge, Retaining Wall and Toe Wall was permitted to be sublet to RKS. The value of this work was found to be Rs.171.62 Lakhs insofar as the

Box Cell Bridge was concerned. It has been explained that even the value of the work for the Retaining Wall and Toe Wall was added to the value of work for the Box Cell Bridge while considering the technical bid of RKS. The total value of the work was taken at Rs.328.44 Lakhs and despite updating the same it was falling short of what was required under the tender notice. Under the tender notice, work of Rs.427.05 Lakhs was required to be undertaken while that undertaken by RKS with updated cost was Rs.397.41 Lakhs. It was on this basis that the Technical Evaluation Committee found RKS to be disqualified in the technical bid.

11. It is well settled that in matters of such nature, the Court would be concerned more with the decision making process rather than the decision itself. The figures of work done by RKS that have been taken into consideration are not in dispute and the same are indicated by various documents on record. In the affidavit filed by the Executive Engineer it has been explained that with a view to give a fair chance to RKS the value of work done with regard to Retaining Wall and Toe Wall was also taken into consideration. According to RKS the Technical Evaluation Committee ought to have included the value of work for the embankment as well as the approach road. Considering the nature of work that was proposed to be awarded under the tender notice which was construction of High Level Submersible Major Bridge, we do not find that the Technical Evaluation Committee by failing to take into consideration

the value of work for the embankment and approach road has acted in arbitrary manner. The said Committee comprised of four technical members who were all well versed with the requirements of the Public Works Department that had issued the tender notice. This Court would not be in a position to sit in appeal over that technical evaluation by the Committee so as to substitute its understanding of the requirements under the tender notice in place of the requirements found necessary by the Technical Evaluation Committee. There is no basis whatsoever for this Court to hold that the decision of the said Committee in holding RKS to be not technically qualified was either arbitrary or tainted with *mala fides* or with a view to favour the successful bidder. After considering the ratio of the decisions relied upon by the learned counsel for RKS we do not find that there is any case made out to interfere with the decision of the Technical Evaluation Committee.

We also find that pursuant to the rejection of the technical bid of RKS the Authorities had refunded the earnest amount to RKS. The documents on record clearly indicate that prior to filing of the writ petition the amount of earnest was duly credited in the account of RKS. In the light of the apology tendered on behalf of RKS in the rejoinder as filed we permit the said matter to rest at that however by clarifying that said aspect has not weighed with the Court while upholding the decision of the Technical Evaluation Committee. Thus the challenge raised by RKS fails.

12. Coming to the challenge raised by GC to the rejection of its technical bid it can be seen from the decision of the Technical Evaluation Committee that after it submitted its documents in support of the technical bid it was noticed by the Executive Engineer that GC had submitted the Bid Capacity Certificate – B worth Rs.160.55 Lakhs. However, the documents did not indicate completion of work and work in hand to the extent of Rs.160.55 Lakhs. GC was thus called upon to submit the documents for complying with Clause 1.4.14 of the tender conditions. The same was required to be complied with by 22.04.2021 till 1.00 p.m. GC was permitted to either submit the original documents at the Divisional Office or through e-mail. The Committee then noticed that GC failed to submit the requisite documents by the date mentioned in the communication dated 20.04.2021. Though GC sent an e-mail alongwith requisite documents on 01.07.2021 the same were not considered having been received after the stipulated time.

From the aforesaid, it becomes obvious that the Executive Engineer on 20.04.2021 had given notice to GC to submit the required documents by 1.00 p.m. on 22.04.2021. Despite that the said documents were not submitted. Thus if the Technical Evaluation Committee acted in terms of the tender conditions after giving an opportunity to GC to submit the documents by specifying the period within which such compliance was to be done, GC cannot be heard to complain that though the said documents were supplied on 01.07.2021 the same were not considered by the

Technical Evaluation Committee when it met on 05.07.2021 to evaluate all the bids. It would have been a different matter if no time was prescribed for submitting the requisite documents and the same were submitted prior to the meeting of the Technical Evaluation Committee. That is not the case here. Hence the decision of the Technical Evaluation Committee in refusing to consider the documents belatedly submitted can hardly be said to be arbitrary or *mala fide*. Adequate notice was given to GC and it is not its case that it sought for extension of some time to submit those documents. Moreover those documents have been submitted almost after two months from 22.04.2021 by which date they were required to be submitted.

Though the learned counsel for GC sought to rely upon the document at Page 296 of Writ Petition No.2580 of 2021 to urge that it had addressed an e-mail to the Authorities, perusal of that document indicates that it is infact an e-mail sent by the authorities to GC and not the other way round. The learned counsel for AA is thus justified in submitting that even in its communication dated 07.06.2021 GC failed to refer to any such e-mail alleged to be sent on 20.04.2021 at 6.00 p.m. We therefore find that the challenge raised by GC to the decision taken by the Technical Evaluation Committee of holding it to be disqualified cannot be termed to be arbitrary, irrational or *mala fide*. The challenge in that regard as raised by GC thus fails.

13. Yet another aspect that cannot be ignored is that the work order was issued to AA on 14.07.2021. Though this Court had made the issuance of the work order subject to the outcome of the writ petitions, it has come on record that AA has completed about 85% of the total work order valued at Rs.388 Lakhs. Interference at this stage is also not warranted since it would be against public interest in the light of the fact that the work under the tender is almost complete. To set the same at naught would involve further expenditure which aspect cannot be ignored. Thus in absence of there being any public interest for this Court to interfere under Article 226 of the Constitution of India, we refrain from doing so in the light of the decision in *Shobhikaa Impex (P) Ltd. Versus Central Medical Services Society* [(2016) 16 SCC 233].

14. For aforesaid reasons, we do not find any merit in the challenge as raised by the unsuccessful bidders to the decision of the Technical Evaluation Committee holding them ineligible in the technical bid.

15. The writ petitions are thus dismissed. Rule stands discharged with no order as to costs.

(URMILA JOSHI-PHALKE, J.) (A.S. CHANDURKAR, J.)

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