

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

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WRIT PETITION NO. 3284/2022

Vyankatesh Engineering
A Partnership firm duly registered
under the Indian Partnership Act, 1932
Through its Partner -
Shri Pawan s/o Sureshkumar Rathi
Aged 38 years occu; Business
having its registered office at Plot No.53,
Jalvihar Colony, Hingna Road
Nagpur and Workshop at Plot No. D-40,
MIDC Industrial Estate Nagpur,
Tah.& Dist. Nagpur (Maharashtra State)

..PETITIONER

v e r s u s

1. Union of India
Through Divisional Railway Manager
South Eastern Central Railway
Kingsway, Nagpur
Tahsil and Dist. Nagpur 440 001
(Maharashtra State)

2) Sr. Divisional Engineer
South Eastern Central Railway
Kingsway, Nagpur
Tah.& Dist. Nagpur- 440 001.
(Maharashtra State)

3) M/s Punam Construction Nagpur
Through its Proprietor
Plot no.12, Pawan Kuti
Bhakre layout, Manewada Ring Road
Balaji Nahar, Near Papadkar Sabha Gruha
Nagpur (State of Maharashtra)

.. RESPONDENTS

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Mr.D.V. Mahajan, Advocate for petitioner
Mr.NS.Deshpande, Deputy Solicitor General of India for Respondent no.1
Mr. K.N.Thakur, Advocate for Respondent No.3
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CORAM: SUNIL B. SHUKRE &
ANIL L. PANSARE, JJ
DATED : 11th November, 2022.

ORAL JUDGMENT: (PER SUNIL B.SHUKRE, J.)

1. **Rule.** Rule made returnable forthwith. Heard finally with consent of the respective parties.
2. The petitioner-firm has questioned the legality and correctness of the communication dated 30th May,2022 informing that its bid for 3.0m. Wide Footover Bridge at Samnapur has not been accepted for the reason that the petitioner-firm failed to submit the 'work completion certificate' in terms of clause (4) of the conditions of the Tender document.
3. Mr. Mahajan, learned Advocate for the petitioner submits that the petitioner did have an experience of completion of similar type of foot over-bridge during last seven years as prescribed under the eligibility criteria by the respondents, but the same has not been

considered properly by the respondents. The learned Advocate relied upon two documents which are at Page Nos.170 and 232 respectively of the paperbook.

4. We have carefully perused the above documents and we agree with the submission of the learned Deputy Solicitor General of India that these documents are not the documents certifying that the petitioner is having work experience of completion of similar works. The document at Page 170 is dated 20th October 2020 and it is only a letter of intent for construction of foot-over bridge. This document, therefore could not be of any help to the petitioner as what is required of the petitioner is submission of work completion certificate showing that the petitioner has completed similar kind of work during the relevant period. The other document is at Page 232 dated 22nd May 2021 which has been issued by the Gandhi Rathi & Co., Chartered Accountants and it only speaks about the contractual receipts of the petitioner during the financial years from 2017-18 to 2020-21. Thus, both these documents do not show that the petitioner possesses the requisite work experience inasmuch as there is no submission by the the petitioner of the work experience certificate as required by clause (4) of the Tender Conditions, at the time of submission of his bid.

5. The learned Advocate for the petitioner has lastly pointed out that the work completion certificate has been submitted by the petitioner, which is evident from the communication dated 30th May 2022. It is true that this letter dated 30th May 2022 does mention that there is a work completion certificate issued by Kalpataru Power Transmission Limited, which is self-attested by the petitioner. This certificate issued by Kalpataru Power Transmission Limited is the document which is forming part of the paperbook at Page 170. We have already adverted to the nature of this document at Page 170 which is, in fact, a letter of intent and not 'work completion certificate'.

6. We find that the respondents have erroneously and casually mentioned in the letter of rejection which is impugned herein that there is work completion certificate issued by Kalpataru Power Transmission Limited. Apart from the the letter of intent dated 20th October, 2020 (Page 170), there is no work completion certificate submitted by the petitioner. The learned Advocate for the petitioner had also not shown to us any other certificate fulfilling the criteria prescribed in Clause (4) of the eligibility conditions submitted by the petitioner along with his aforesaid bid.

7. We find no merit whatsoever in the petition. The Writ Petition stands dismissed. Rule is discharged.

JUDGE

JUDGE

sahare