

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

**WRIT PETITION NO.7206 OF 2022**

Avani Bahuuddeshiya Berojgar Seva Sahakari Sanstha, Chandrapur-through its President-  
 Sau.Kalpana Ashok Hate

vs.

State of Maharashtra through its Secretary, Ministry of Urban Development Department and  
 others.

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 Office Notes, Office Memoranda of  
 Coram, appearances, Court's Orders  
 or directions and Registrar's order  
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Court's or Judge's Order

Shri R.D.Karode, Advocate for petitioner.  
 Ms. S.S.Jachak, Assistant Government Pleader for respondent no.1.  
 Shri M.I.Dhatrak, Advocate for respondent no.2.  
 Shri K.J.Tople, Advocate for respondent no. 3.

**CORAM :- A.S.CHANDURKAR AND ANIL L. PANSARE, JJ.,**  
**DATE :- DECEMBER 14, 2022**

The challenge raised in this writ petition is to the acceptance of technical bid of the respondent no.3 and the decision of the respondent no.2- Chief Officer, Nagar Panchayat, Sindewahi in holding the respondent no.3-bidder to be qualified and thereafter awarding the contract of solid waste management pursuant to the tender notice issued by the respondent no.2 on 13.10.2022.

2. The learned counsel for the petitioner submits that according to the tender notice a bidder was required to submit various documents in envelope no.1. The respondent no.3 did not submit the requisite documents and despite that his technical bid was approved and he was found eligible to participate in the financial bid. The documents submitted by the respondent no.3 were defective and did not satisfy the requirements of the tender notice. There was no registration certificate of the firm as required. No experience certificate of having undertaken the work of waste management was submitted. The documents relating to registration with the Provident

Fund authorities were not submitted. Necessary income tax returns as well as certificate of the Chartered Accountant indicating turnover for the previous years were also not submitted. He referred to the objection raised by the petitioner in that regard by his communication dated 09.11.2022 as well as the information received under the Right to Information Act, 2005 on 11.11.2022. On that premise, it was submitted that the technical bid of the respondent no.3 could not have been accepted. It was further submitted that contrary to the tender notice the Tender Evaluation Committee called for requisite documents from the respondent no.3 and thereafter by accepting his bid awarded the work order to him. The learned counsel for the petitioner placed reliance on the decisions in *AVP Infrastructure Engineers and Contractors, Amravati Vs. State of Maharashtra and others [2022(6) Mh.L.J. 219]*, *M/s. V.N.Reddy Vs. Superintending Engineer and ors. [2022 (5) All M R 216]*, *Kamal Construction Co. through Proprietor Radhkrishan Dhanjal vs. State of Maharashtra and ors. [2021 SCC Online Bom 6815]* *Siddhivinayak Enterprise vs. State of Maharashtra and ors. [2021 SCC Online Bom 13150]* and *KEC International Ltd., Mumbai and State of Maharashtra and ors. [2008(2) Mh. L. J. 426]* and submitted that the technical bid of the respondent no.3 was liable to be rejected. Consequentially the work order awarded to the respondent no.3 was also liable to be cancelled.

3. The learned counsel appearing from the Municipal Council opposed the aforesaid submissions. According to him, as per the tender notice the technical bids were opened on 01.11.2022. In accordance with Clause 4.5.2 of the Government Resolution dated 27.09.2018 an opportunity was given to all the bidders to submit requisite documents and remove defects, if any. On that basis, on 02.11.2022 communication was issued to the respondent no.3 to submit the requisite documents and on 03.11.2022 the respondent no.3 submitted those documents. Referring to the tender summary report, it was submitted that the financial bids were opened on 07.11.2022 and since the bid submitted by the respondent no.3 was 18% below, the work order

was issued to it. It is only after issuance of the work order to the respondent no.3 that the petitioner raised an objection on 09.11.2022 and on 11.11.2022. He referred to various documents submitted by the respondent no.3 to urge that the technical bid was rightly accepted. Hence in absence of any *mala fides* there was no reason to interfere in writ jurisdiction.

The learned counsel appearing for the respondent no.3 supported the aforesaid submissions and urged that due compliance of the tender notice was made by the respondent no.3. He tendered the relevant documents that were submitted to the respondent no.2 for perusal.

4. On hearing the learned counsel for the parties and after perusing the documents on record, we are satisfied that no case for interference in writ jurisdiction has been made out by the petitioner. In accordance with the tender notice, the technical bids submitted through envelope no.1 were opened on 01.11.2022. On noting deficiencies therein, the Tender Evaluation Committee on 02.11.2022 informed the concerned bidders including the respondent no.3 to remove such deficiencies as found. In response thereto, on 03.11.2022 the respondent no.3 submitted necessary documents. It is thereafter that on 07.11.2022 the financial bids were opened and on finding the bid submitted by the respondent no.3 to be below 18%, the work order was issued to it.

5. It is seen that the aforesaid process has been conducted in a transparent manner. There are no allegations of *mala fides* or favouritism raised by the petitioner. The objection raised by the petitioner is only on 09.11.2022 after the financial bids were opened. The information received under the Right to Information Act, 2005 also does not take the case of the petitioner any further. The Respondent no.2 as employer was satisfied with the documents submitted by the respondent no.3 and found its technical bid to be eligible for further consideration.

6. We have perused the documents which were tendered by the respondent no.3 pursuant to the notice issued on 02.11.2022 by the Tender

Evaluation Committee. We do not find that those documents are of such nature that they are not in accordance with the documents as required by the tender notice. The respondent no.2 has acted in accordance with Clause 4.5.2 of the Government Resolution dated 27.09.2018 which governed the tender process.

7. After considering the ratio of the various decisions relied upon by the learned counsel for the petitioner, we do not find that the facts in the present case require us to hold that the tender process was conducted in an arbitrary and irrational manner with a view to favour the respondent no.3. Hence for aforesaid reasons, the writ petition is dismissed with no order as to costs.

(ANIL L. PANSARE, J.)

(A.S.CHANDURKAR, J.)

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