

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

908 WRIT PETITION NO.1075 OF 2023

Guru Ganesh Admedia
Through Its Proprietor
Shailendra Shantilal Baldota .. Petitioner

Versus

The State of Maharashtra
Through Its Secretary and another .. Respondents

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Advocate for Petitioner : Mr. Vinod B. Jadhav
AGP for Respondent – State : Mr. A.R. Kale
Advocate for Respondent No.2 : Mr. A.V. Hon
Advocate for Respondent No.3 : Mr. G.K. Sontakke &
Mrs. P.G. Sontakke (Patil)

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**CORAM : NITIN W. SAMBRE AND
S.G. CHAPALGAONKAR, JJ.**

DATE : 12-04-2023

PER COURT :

. Heard learned counsel appearing for the respective parties.

2. The challenge in the petition is to the communication dated 01st December, 2022 issued by respondent no.2 - Municipal Corporation whereby petitioner was informed about cancellation of the work order issued in his favour. Such a cancellation is on account of failure of petitioner to adhere to the tender conditions.

3. Respondent no.2 - Municipal Corporation, on 27th July, 2022, published an e-tender in relation to auction for the installation of advertisement on main road in the form of Unipole in the entire city of Latur. Bid process was carried out and since petitioner made highest offer, his bid was accepted for an amount of Rs.33,75,000/-. The tender condition prescribes that the amount of premium to be paid by the successful bidder like petitioner was to be deposited within a period of 07 days from the date of issuance of the work order. The work order contains the condition that the said amount is to be deposited by petitioner within a period of one month from the date of work order. Petitioner has offered an amount of Rs.8,45,000/- on 31st October, 2022. Due to failure of petitioner to adhere to the tender condition, the impugned order came to be passed.

4. Mr. Jadhav, learned counsel appearing for petitioner while assailing the impugned order would invite attention of this Court to the tender condition viz. deposit of the amount of premium for a period of three months within seven days from the date of issuance of work order and the condition incorporated in the work order dated 29th August, 2022 wherein petitioner was directed to deposit the entire amount of Rs.33,75,000/- within a period of one month. According to him, the aforesaid condition incorporated in the

work order by respondent - Corporation is contrary to the tender condition and as such, respondent ought not to have issued fresh tender and allotted work in favour of respondent no.3.

5. Mr. Hon, learned counsel for respondent no.2 and Mr. Sontakke, learned counsel for respondent no.3 - a successful bidder would urge that after cancellation of contract in favour of petitioner, there is a concluded contract in favour of respondent no.3 and the entire work of installation of unipole is in progress and now it is at the final stage. As such, it is prayed that the petition be dismissed.

6. We have appreciated the aforesaid submissions.

7. The fact remains that the tender condition no.8 in categorical terms directs petitioner, in whose favour the work order was issued on 29th August, 2022, to deposit the premium amount of three months within a period of 07 days from the date of work order. It is the case of petitioner that he has offered an amount of Rs.8,45,000/- on 21st October, 2022. From the said fact, it is clear that petitioner has failed to deposit the premium for a period of three months within 07 days from the date of issuance of work order to him.

8. In view of the above, petitioner has failed to demonstrate that he has complied with the condition no.8 enumerated in the tender.

9. Even if petitioner has failed to deposit amount of Rs.33,75,000/- as has been directed by respondent - Corporation as mentioned in the work order, petitioner is unable to demonstrate that he has deposited the amount of premium of three months within a period of 07 days from the date of issuance of the work order.

10. The aforesaid conduct of petitioner clearly demonstrates his financial incapacity to comply with the tender condition.

11. In the aforesaid backdrop, it is only because of failure of petitioner to comply with tender condition, the contract awarded in his favour came to be cancelled that too for a reasonable cause.

12. In view of above, no case for causing interference in petition is made out. The petition fails and is dismissed.

(S.G. CHAPALGAONKAR, J.)

(NITIN W. SAMBRE , J.)