

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

**WRIT PETITION NO.1528 OF 2023**

Dhananjay s/o Namdev Munde,

... **PETITIONER**

**VERSUS**

1. The State of Maharashtra  
through its Principal Secretary,  
Water Supply and Sanitation Department  
Mantralya, Mumbai - 32
2. The Chief Executive Officer,  
Zilla Parishad, Beed  
Tq. & Dist. Beed
3. The Executive Engineer,  
Rural Water Supply Department,  
Zilla Parishad, Beed, Dist. Beed.
4. Shri Vishal s/o Vaijinath Tandale

... **RESPONDENTS**

...

Advocate for petitioner: Mr. Rahul D. Khadap

A.G.P for respondent No.1 : Mr. G.A. Kulkarni

Advocate for respondent Nos.2 and 3 : Mr. P.D. Suryawanshi

Advocate for respondent No.4 : Ms. Rekha M. Mohale

...

**CORAM : MANGESH S. PATIL &  
NEERAJ P. DHOTE, JJ.**

**DATE : 06.12.2023**

**ORDER (MANGESH S. PATIL, J.) :**

Heard. Rule. Rule is made returnable forthwith. Learned AGP waives service for respondent No.1, learned advocate Mr. Suryawanshi waives service for respondent Nos.2 and 3 and learned advocate Ms. Mohale waives service for respondent No.4. At the joint request of the parties the matter is heard finally at the stage of admission.

2. The petitioner is invoking the powers of this Court under Articles 226 and 227 of the Constitution of India to question the decision of the respondent No.3 to disqualify him in the technical bid from the tender process for implementation of a scheme of water supply under Jal Jeevan Mission at Village Tadsonna Tal. and Dist. Beed. The petitioner is also seeking that the work order issued in favour of the respondent No.4 be quashed and set aside.

3. The learned advocate for the petitioner would submit that the petitioner had submitted the bid as a joint venture as was permissible. The certificate of experience of the collaborator was admissible in terms of the tender notice. The petitioner's collaborator was possessing such requisite certificate in respect of previous work, still he has been wrongly disqualified. He would submit that the decision has been taken behind his back. No opportunity was extended to him to remove the shortcomings. The decision is arbitrary, discriminatory and contrary to the Government Resolutions.

4. Per contra, the learned advocate for the respondent Nos.2 and 3 by referring to the affidavit-in-reply would advert our attention to condition No.35 of the NIT. He would submit that though a joint venture was permissible, it was expressly notified that the work experience of the joint venture would not be considered as valid. He would also submit that the experience certificate that was tendered by the petitioner was also without any tender ID which was also a stringent condition that was

expected to be complied with. He would, therefore, submit that for non-compliance of these requirements petitioner's technical bid has been rejected. There is no fault in undertaking the process. It was done in a transparent manner. There is no arbitrariness or illegality and the petition be rejected.

5. We have considered the rival submissions and perused the papers. It is necessary to proceed laying down emphasis on the limitations on the powers of this Court to undertake a judicial review in tender matters. We do not intend to elaborate this aspect except by observing that we are proceeding ahead bearing in mind the principles culled down in the matter of **M/s. NG Projects Ltd Vs. M/s. Vinod Kumar Jain and Ors.**; (2022) 6 SCC 127.

6. The petitioner's technical bid has been rejected on two counts. Contrary to the condition at serial no.35 of the NIT, the petitioner could not produce certificates of work experience. The certificates which he had tendered were not bearing signature of the Executive Engineer but were signed by the Chief Officer which again was contrary to stipulation in condition no.3, in respect of the documents to be furnished.

7. The second reason is that the documents tendered by him to substantiate work experience did not contain any tender ID when the NIT expressly expected the experience certificate to mention the tender ID.

8. We have inherent limitations to undertake any scrutiny as

regards the importance of these stipulations or their propriety. The respondent No.3 being an employer will have the prerogative to treat a particular condition or stipulation as necessary prerequisite.

9. When the petitioner has even failed to demonstrate even before us that he was having the requisite documents/certificates of similar work having been performed duly signed by the Executive Engineer with a tender ID, in our considered view no fault can be found in the decision making process, wherein, his bid has been disqualified at the technical evaluation.

10. The writ petition is dismissed.

**[ NEERAJ P. DHOTE ]**  
**JUDGE**

**[ MANGESH S. PATIL ]**  
**JUDGE**