

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

913 WRIT PETITION NO.6087 OF 2022

**M/S KHAN CONSTRUCTION THROUGH ITS PROPRIETOR PATHAN ASAD
ASHRAF KHAN
VERSUS
THE STATE OF MAHARASHTRA THROUGH THE SECRETARY AND OTHERS**

...
Advocate for Petitioner : Mr. Shaikh Mazhar A. Jahagirdar
AGP for Respondents/State: Mr. A. R. Kale
Advocate for Respondent No.3: Mr. Sayyed Tauseef Yaseen

...

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

DATE : 28.03.2023

PER COURT :

1. The respondent no.3/Municipal Council issued E-tender in which the petitioner's technical bid was rejected for the reason of non submissions of experience certificate.
2. The learned counsel for the petitioner submits that even if the work order is issued in the matter, the fact remains that petitioner has approached well within time questioning the decision of rejection of the technical bid as the petitioner has duly submitted experience certificate along with the tendered documents.
3. In response to the above, learned counsel for respondent no.3/Municipal Council submits that there is a concluded contract in favour of third party who is not impleaded as on 07th June, 2022, work order is already issued and almost half of the work is already executed.

4. Having appreciated the aforesaid submissions, what can be noticed, there is concluded contract in favor of third party who is not before us. After the issuance of work order dated 07th June, 2022, in view of statements made by counsel for respondent no.3, partial work is already executed.
5. In view of above, we do not deem it appropriate to cause any interference in writ jurisdiction particularly when the petitioner has a remedy of claiming damages in the matter.
6. The petition stands disposed of in the above terms.

(S. G. CHAPALGAONKAR, J.)

(NITIN W. SAMBRE, J.)

Sameer