

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

WRIT PETITION NO.6681 OF 2023

M/s Raj Constructions Company,
Tq.Kaij, Dist.Beed.
Through its Partner-
Vandana Tukaram Watane,
Age : 49 years, Occupation : Business,
R/o Dharur Road, Kaij,
Tq.Kaij, Dist.Beed.

...PETITIONER

-VERSUS-

1. The State of Maharashtra.
Through its Principal Secretary,
Water Supply and Sanitation Department,
Mantralaya, Mumbai-400032.
2. Chief Executive Officer,
Rural Water Supply Department,
Zilla Parishad, Beed.
3. Executive Engineer,
Rural Water Supply Department,
Zilla Parishad, Beed.
4. District Collector, Beed.

...RESPONDENTS

...
Advocate for the Petitioner : Shri S.S. Thombre
AGP for Respondents 1 and 4/State : Shri S.G. Karlekar
Advocate for Respondents 2 and 3 : Shri P.D. Suryawanshi
...

**CORAM : RAVINDRA V. GHUGE
&
Y. G. KHOBRAGADE, JJ.**

DATE :- 23rd June, 2023

ORAL JUDGMENT (Per Ravindra V. Ghuge, J.):-

1. Rule. Rule made returnable forthwith and heard finally by the consent of the parties.

2. We have considered the submissions of the learned Advocates for the respective sides in the light of the prayer clauses B, C and D, which read as under:-

“B) *By issuing a writ of mandamus, orders, directions or any other appropriate writ in the like nature, the impugned e-tender notice dated 13th June, 2023, issued by the Respondents/authorities thereby again inviting e- tenders from the bidders to carry out the very same work under Jal Jeewan Mission, (JJM) 2022-2023, may kindly be quashed and set aside, by directing the respondents to allow the petitioner to carry out the work in view of the Work Order dated 16.01.2023 issued in his favour within time frame;*

C) *Pending hearing and final disposal of this writ petition, the respondents/authorities may kindly be directed to allow the petitioner to carry out the work in view of the Work Order dated 16.01.2023 issued in favour of the petitioner pursuant to acceptance of its E-tender for carrying out constructions of Water supply Scheme at village Sarani (Anandgaon) Tq. Kaij District Beed (under Jal Jeewan Mission 2022-23), and for that purpose, issue necessary orders;*

D) *Pending hearing and final disposal of this writ petition, the impugned E-tender notice dated 13th June, 2023 issued by the Chief Executive Officer, Water Supply Scheme, ZP, Beed, may kindly be stayed, and for that purpose, issue*

necessary orders;”

3. We do not intend to enlarge the size of this judgment by referring to the various details set out in the pleadings for the reason that there is no dispute that the Petitioner was the lowest bidder (L-1), his tender was accepted and the Earnest Money Deposit (EMD) as well as Fixed Deposit Receipt were already tendered as per the instructions which are received from the Zilla Parishad. After issuing the work orders, his tender has been cancelled by the order dated 13.06.2023 for the reason that “ठेकेदारविरुद्ध विधान मंडळात प्रश्न उपस्थित करण्यात आल्याने.”

4. On the one hand, once the L-1 bidder’s tender has been accepted and he has completed all necessary formalities prior to issuing a work order, the authorities should be extremely slow in interfering with such matters or cancelling the tender, save and except, for a fraud which is discovered or any other serious aspect which would strike at the root of granting of the tender to the bidder, is noticed. On the other hand, if an order for recalling the acceptance of the L-1 bidder and grant of contract to him is to be passed, the principles of natural justice must be adhered to and the order must be supported with reasons. There

is no dispute that reasons would be the heart and soul of the order. The reasons must be borne out from the order and cannot be supplanted when the order is challenged in the court.

5. In view of the above, **this Writ Petition is allowed.** The impugned order dated 13.06.2023 is quashed and set aside and the work order dated 16.01.2023 that is already issued to the Petitioner, shall be restored.

6. Needless to state, the loss of time from 16.01.2023 till the passing of this order, would be added to the duration within which the tender work/ contract has to be completed.

7. Rule is made absolute in the above terms.

kps

(Y. G. KHOBRADE, J.)

(RAVINDRA V. GHUGE, J.)