

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

33 WRIT PETITION NO.9566 OF 2023

**M/S S. R. CONSTRUCTIONS
THROUGH ITS PARTNER SANDIP SUDHAKR BHAPKAR
VERSUS
THE STATE OF MAHARASHTRA THROUGH SECRETARY AND OTHERS**

AND

39 WRIT PETITION NO.9586 OF 2023

**M/S. S.R. CONSTRUCTIONS
THR ITS PARTNER SANDIP SUDHAKAR BHAPKAR
VERSUS
THE STATE OF MAHARASHTRA THR SECRETARY AND OTHERS**

AND

59 WRIT PETITION NO.9675 OF 2023

**M/S S. R. CONSTRUCTIONS
THROUGH ITS PARTNER SANDIP SUDHAKAR BHAPKAR
VERSUS
THE STATE OF MAHARASHTRA THROUGH SECRETARY AND OTHERS**

AND

70 WRIT PETITION NO.9707 OF 2023

**M/S S. R. CONSTRUCTIONS
THROUGH ITS PERTNER SANDIP SUDHAKAR BHAPKAR
VERSUS
THE STATE OF MAHARASHTRA THROUGH SECRETARY AND OTHERS**

AND
73 WRIT PETITION NO.9719 OF 2023

M/S. S.R. CONSTRUCTIONS,
THR ITS PARTNER SANDIP SUDHAKAR BHAPKAR
VERSUS
THE STATE OF MAHARASHTRA THR SECRETARY AND OTHERS

AND
76 WRIT PETITION NO.9731 OF 2023

MS S R CONSTRUCTION
THROUGH ITS PARTNER SANDIP SUDHAKAR BHAPKAR
VERSUS
THE STATE OF MAHARASHTRA THROUGH SECRETARY AND OTHERS

...
Advocate for Petitioners : Mr. Singh J.N.
AGP for Respondents/State : Mr. V.M. Kagne
...

**CORAM : RAVINDRA V. GHUGE &
Y.G. KHOBRADE, JJ.**
DATE : 7th August, 2023

PC. :-

1. In all these matters, the Petitioner has been disqualified from the bidding process on the ground that he has not tendered the turn over for one of the five financial years preceding the financial year in which the bid has been invited. The Petitioner contends that he has been disqualified because the authorities calculated the five financial years even from 2023-2024 and committed a grave mistake in concluding that 2023-2024 would be a financial year which is preceding the bid invitation. A solemn statement is made that

the financial bids of other bidders have been opened, however work orders are not yet issued.

2. The learned advocate for the Petitioner has addressed us by contending that even if there is a single deficiency in his bid, he is out of the Court.

3. With the assistance of the learned advocates for the Petitioner and the State, we have perused the Standard Bidding Document for PMGSY-III for the year 2022-2023 (Construction and Maintenance).

4. Our attention is drawn to internal page 47 of the said document (running page 136, clause 1.2) which specifically indicates the financial years, for which the total annual volume of civil engineering construction work executed and payments received in the last five years preceding the year in which the bids are invited.

5. The five years from which the certificates of the Chartered Accountant are required are 2017-2018, 2018-2019, 2019-2020, 2020-2021 and 2021-2022. Admittedly, the Petitioner has not tendered the Chartered Accountant certificate for the year 2017-2018.

6. The Petitioner relies upon the press note which is dated 24.04.2023 and for identification, the press note is marked as 'E-Tender No.01/2023-2024'. It is undisputed that the main tender document begins from page 90 and the package no. is MH-01-120 and the standard bidding is for PMGSY-III for the year 2022-2023.

7. Though the Petitioner desires to interpret the said document in his own way for self serving purposes, we are convinced that the said contract was for the PMGSY-III for the year 2022-2023 and the documents specifically indicate as to which are the years for which the certificates from the Chartered Accountant was required. Neither can we go beyond the tender document, nor can the Petitioner argue in a way that suits his convenience.

This is the first condition by which the Petitioner has incurred disqualification.

8. We have then perused the impugned order titled as 'निविदा छाननीचे इतिवृत्त' dated 26.06.2023. The bid capacity of each bidder has to be measured in the light of the above conditions. The calculations of the department are as under:

"त्यानुसार त्यांची Bid Capacity खालीलप्रमाणे येते

$$\text{Bid Capacity} = (A \times N \times M) \quad B = 3168.37 \times 1.5 \times 2 - 9024.01 = 481.11$$

Sr.No.	Package No.	Required Minimum Bid Capacity
1)	MH-01-120	Rs. 783.96 Lakh

उपरोक्त पॅकेजमधील Required Minimum Bid Capacity पेक्षा सदर Bid Capacity निविदेतील अटी व शर्तपेक्षा कमी आहे.”

In view of the above, the bid capacity i.e. Rs.783.96 lakhs is required as the minimum bid. The Petitioner's minimum bid capacity is 481.11. This the second deficiency.

9. We, therefore, find two deficiencies. The learned advocate for the Petitioner has clearly tried to mislead us.

10. In view of the above, **all these petitions are devoid of merit and stand dismissed.**

[Y.G. KHOBRADE, J.]

[RAVINDRA V. GHUGE, J.]