



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

REVIEW APPLICATION (CIVIL) NO. 292 OF 2023
IN WP/2442/2023

M/S. YASHSHRI CONSTRUCTION COMPANY THR
ITS PROPRIETOR SAMPAT VASANT LAVHARE AND ANOTHER

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for Petitioners : Mr. Kedar Shrimant Ravsaheb

A.G.P. for Respondent No. 1 : Mr. S.V. Hange

Advocate for Respondent nos. 2 to 4 in WP : Mr. P.D. Suryawanshi

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

DATE : 19.12.2023

PER COURT :

Heard both the sides and perused the record.

2. The petitioners, who had applied in response to the tender notice were disqualified. They preferred Writ Petition No. 2442/2023. By the order dated 04.12.2023 the writ petition was dismissed that the respondents were correct in disqualifying the petitioners on the ground *inter alia* that experience certificates filed by them were not having tender ID though it was mandatory.

3. Seeking review of the order by filing this review application, the petitioners have specifically alleged that the stand of the respondents in the affidavit in reply filed in the writ petition about absence of tender ID on the experience certificate produced by the petitioners was factually incorrect. The experience certificate dated 25.04.2017 which was appearing at page

No. 75 was a photo copy of the experience certificate annexed by them while uploading the documents with their application. However, they specifically allege that the photo copy was manipulated before it was filed with the affidavit in reply, by hiding tender ID appearing at the bottom of the uploaded certificate. According to them, the photo copy of that document filed at page no. 66 of the review application is the actual photo copy which bears the tender ID.

4. We were not inclined to entertain the review application but finding that the allegations about manipulation/forgery were serious, we had, by the order dated 14.12.2023 called upon the respondent nos. 2 to 4 to respond to the allegations.

5. Accordingly, the respondent no. 4, who is the in-charge Executive Engineer of the Rural Water Supply Department, Zilla Parishad, Beed Mr. Machindra Rajendra Lad has filed the affidavit in reply *inter alia* maintaining that the experience certificate which was accompanied with the petitioners' offer and was uploaded and appearing at page No. 75 of the writ petition is a photo copy of the very same document and does not bear tender ID. The compilation of all the documents uploaded by the petitioners along with the offer are annexed collectively at Exh. R-1 with the affidavit in reply. It is being alleged that in fact the page no. 66 in the review application is a manipulated document. Care has been taken to take out a photo copy in such a manner that the tender ID would appear so as to mislead the Court.

6. The learned advocate for the petitioners/review applicants still maintains that the original experience certificate which was a part of the offer document was bearing tender ID but while filing its copy in the Court the respondent no. 4 manipulated it, so as to, disappear the tender ID which otherwise appears at the bottom of the certificate and has resorted to manipulation.

7. Per contra, the learned advocate for the respondent no. 4 maintains the stand in the affidavit in reply.

8. The fact that it was a matter of E-tender process wherein the bidders were supposed to upload along with offer all the necessary documents in terms of the tender notice, once the respondent no. 4 is coming with a specific stand and has even annexed the photo copies of the entire compilation uploaded by the petitioners, wherein even the disputed experience certificate appears at page no. 134 which does not contain any tender ID at the bottom, it was for the applicants/petitioners to controvert this stand by filing a rejoinder. They having failed to do so, we have no reason to disbelieve the respondent no. 4.

9. In view of such state of affairs, there is no substance in the allegations made by the petitioners about respondent no. 4. Rather we are of the considered view that the conduct of the petitioners in taking such stand is not only an after thought but is highly objectionable and a sheer gross abuse of process of law.

10. Since we expressed our intention to initiate prosecution but in view of the principles laid down in the matter of **Iqbal Singh Marwah Vs. Minakshi Marwah; (2005) 4 SCC 370** we cannot do so, the learned advocate for the petitioners tenders apology. He also on instructions, seeks leave to withdraw the Review Application.

11. The Review Application is disposed of as withdrawn. However, the petitioners shall deposit costs of Rs. 10,000/- (Rs. Ten Thousand only) in this Court within four weeks.

(NEERAJ P. DHOTE, J.)

(MANGESH S. PATIL, J.)

mkd/-