

Santosh

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 120 OF 2023

JAIN BUILDERS, PARTNERSHIP
FIRM THROUGH PARTNER
SUBODH JAIN, REPRESENTED BY
POA PRAFUL JAI.

... Petitioner.

Versus

THE ENGINEER IN CHIEF,
MILITARY ENGINEERING
SERVICES AND 4 OTHERS.

... Respondents

Mr Shivan Desai, with Mr Varun Bhandanker,
Advocates *for the Petitioner.*

Mr Raviraj Chodankar, Central Government Standing
Counsel *for the Respondents.*

CORAM: DHIRAJ SINGH THAKUR &
M. S. SONAK, JJ.

DATED: 20th MARCH 2023.

P.C. :-

1. The grievance of the Petitioner in the present case is that its bid has been rejected on account of an endorsement dated 24/12/2022 recorded by the Chief Engineer, Central Command, Lucknow to the effect that the business dealing with the Petitioner firm had been suspended. The suspension is stated to have been ordered based upon the fact that there were criminal

proceedings pending against one of the partners of the Petitioner Firm. The Petitioner's case is that notwithstanding the presence of the aforementioned endorsement, the Petitioner Firm had been allotted contracts in the year 2022 even after a similar endorsement had been recorded in the year 2018. It was, therefore, urged that there was no reason for the Respondents to give extra weightage to such an endorsement, when, in a similar situation, contracts were allotted to the Petitioner Firm which were in the process of being completed successfully.

2. The learned Central Government Standing Mr Chodankar submits that the present controversy need not be gone into inasmuch as the Respondents are in the process of retendering the contract inasmuch as more than 60 days had elapsed from the last date of submission of the bids. This is stated to be as per the terms of the Notice Inviting Tender (NIT). Additionally, it was submitted that the Petitioner had failed to submit an amount of ₹15,00,000/- at the time of submission of its bid and that even on that basis, the Petitioner would not be entitled to participate in the bidding process and the bid would be rejected on that ground also, assuming the contract was not to be retendered.

3. Be that as it may, in view of the statement of the learned

Standing Counsel in the Court that the Respondents are in the process of retendering the contract since more than 60 days had elapsed from the last date of submission of the bids, the issues raised in the present Petition as regards one of the contracts, are rendered academic.

4. The Petitioner, in the present Petition, also seeks to invoke the jurisdiction of this Court under Article 226 of the Constitution in regard to another contract for Construction of Accommodation and allied facilities at Kochi. The apprehension expressed by the Petitioner was that its bid in regard to the aforementioned contract would be rejected on the basis of the aforementioned endorsement, which was invoked for the purposes of rejecting the bid of the Petitioner with regard to the contract dealt with by us in the preceding paragraph. However, we feel that no such rejection has been ordered by the Respondents in regard to the aforementioned contract and, therefore, as and when a decision is taken, it would be open to the Petitioner to approach this Court at that stage.

5. The Petition is disposed of accordingly.

M. S. SONAK, J.

DHIRAJ SINGH THAKUR, J.