

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7354 OF 2023

Creative Carve Pvt. Ltd.

: Petitioner.

V/s.

Pune Metropolitan Region Development
Authority, Pune and ors.

: Respondents.

Mr. Manoj Shirsat a/w Mr. Archit Chaturvedi and Mr. Pranay Patil
i/by FF & Associates for the Petitioner.

Mr. P. P. Kakad, GP a/w Ms. R. A. Salunkhe AGP for Respondent
No.3-State.

CORAM : NITIN JAMDAR, ACTING CJ. &
ARIF S. DOCTOR, J.

DATED : 20 JUNE 2023.

P.C.:

By the present Writ Petition the Petitioner has sought the
following reliefs :-

- (B) *Quash and set aside the entire Tender floated by
Respondent No.1.*
- (C) *Hold and declare the Petitioner as qualified in the
Technical bid in respect of the tender floated by
Respondent No.1.*
- (D) *Pending the hearing of this petition, stay the
results of the e-auction tender process.*

(E) During the pendency and final disposal of the instant Petition restrain the Respondent No.1 from handing over the "said plot" to Respondent No.2.

Petitioner is not entitled to question allotment in favour of Respondent No.2 for the following reasons.

3. Briefly, the facts are that on 23 March 2023, Respondent No.1 –Pune Metropolitan Region Development Authority, Pune, floated a Tender for 80 years lease of three industrial plots. The date of publication website and newspaper was scheduled on 23 March 2023. Bidder Registration on the website was from 23 March 2023 (5.00 pm onwards) till 17 April 2023 (up to 5.00 pm). Downloading of Tender Documents was from 23 March 2023 (5.00 pm onwards) till 17 April 2023 (up to 5.00 pm) and further schedule as specified.

3. Notice and the time-line clearly state that the entire process was online. The procedure for obtaining bids in the e-auction process is appended to the Tender documents. Notice stipulated that the bids will be received online on e-Auction portal. It is an admitted position that the Petitioner did not submit all its documents by 17 April 2023 online. According to the Petitioner, since the Petitioner did not receive any intimation and that Respondent No.2 was granted plot as successful bidder, the Petitioner has approached this Court.

4. It is the contention of the Learned Counsel for the

Petitioner that the Petitioner had faced technical glitches in uploading the documents as the Petitioner was the first-time user, and, therefore, had submitted the documents as hard copies, which were accepted on 17 April 2023 along with receipt of e-payment. Learned Counsel also sought to rely upon the communication addressed by the Petitioner to the Metropolitan Commissioner of Respondent No.1, wherein it is stated that the hard copies were submitted because of the problem faced by them in uploading the documents and had queried the status of its bid.

5. Notice, as well as the conditions of the Tender, clearly stipulated that the bids must be submitted online. In the Petition, except for stating in one line that the Petitioner could not upload the documents due to certain technical glitches in completing the process, there are no further particulars. It is not even stated whether the technical glitches were at the end of Respondent No.1 or the Petitioner or whether there was any general failure of the system, which could not be, because the Petitioner has made e-payment. Nothing is placed before us as to who has accepted the documents as hard copies. Though there is a stamp on the letter dated 17 April 2023, however, there are no particulars of the officer concerned of Respondent No.1. It is not even demonstrated before us that under the terms and conditions any officer was authorized to accept the hard copies. The letter dated 17 April 2023 makes no reference to any technical glitches and reasons for submitting the documents as hard copies. What emerges, therefore is that in terms of e-Auction Notice and conditions

attached thereto, Petitioner's bid was not submitted online within the stipulated time-line. It needs to be noted ample time was given to the bidders from 23 March 2023 till 17 April 2023.

6. In light of this position if the Petitioner's bid was not considered, we do not find any error in the approach of Respondent No.1.

7. Writ petition is accordingly rejected.

(ARIF S. DOCTOR, J.)

(ACTING CHIEF JUSTICE)