

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**WRIT PETITION NO. 12447 OF 2022
WITH
INTERIM APPLICATION NO.19160 OF 2022**

M/s. M. Kumar Group
Through : Shri Mohankumar P Patil Petitioner

Vs.

The State of Maharashtra & Ors. Respondents

Mr.Dashrath S. Hatle a/w Mr.Deepak Jamsandekar for the
Petitioner
Mr.M.M.Pabale, A.G.P. for Respondent no.1
Mr.N.R.Bubna for Respondent nos.2 to 4
Mr.Ajit Pitale for Respondent no.6

**CORAM: S.V.GANGAPURWALA, ACJ &
SANDEEP V. MARNE, J.**

DATED : APRIL 5, 2023

P.C.

1. Pursuant to the tender notice, the Petitioner, Respondent no.6 and others had filled in the tender for road cleaning, in the night shift on the main road of the commercial areas by engaging 160 workers including Supervisors. Respondent no.6 was declared as L1. Work order is issued to Respondent no.6. The period of work is six months. The said period has come to an end.

2. The learned Counsel for the Petitioner submits that

Respondent no.6 was not technically as well as commercially eligible. The Petitioner does not have the experience of working in night shift. False certificate has been given by the employee of the Corporation. Enquiry deserved to be directed to be made in respect of the same. The learned counsel further submits that the rate quoted by the Petitioner of Rs.50,82,690.80 per month also cannot abide by the provisions of the Minimum Wages Act. The Respondent no.6 is required to employ 160 employees including Supervisor. If the wages as per Minimum Wages Act are calculated, the Petitioner would not be in a position to pay employees as per the Minimum Wages Act. The Petitioner has given calculation to show that if the rate of the Respondent no.6 is accepted then he would hardly earn a sum of Rs.19,093.93. According to the learned counsel, the Corporation without assessing all these aspects have awarded tender to ineligible Respondent no.6.

3. We have considered the submissions. The period of the work order is already over.

4. The Corporation has to consider the tender. The technical bids are evaluated by the experts. The experts have to consider whether a person qualifies with the technical bid on the basis of certificate on record. The learned Counsel for the Corporation does not dispute the certificate issued to Respondent no.6.

5. This court would not sit in Appeal over the decision taken by the tendering authority. This court would be more concerned with due adherence to the decision making process.

6. In light of the above, it would not be possible now to entertain the Petition.

7. Writ Petition as such is disposed of. No costs.

8. Interim Application also stands disposed of.

(SANDEEP V. MARNE, J)

(ACTING CHIEF JUSTICE)