

Ashwini

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 11391 OF 2023

Powertron India Pvt Ltd through Director Vivek Panchal ...Petitioner

Versus

The Commissioner Nashik Municipal Corporation & Ors ...Respondents

Mr Surel Shah, i/b Shrishailya Deshmukh, for the Petitioner.
Mr ML Patil, for the Respondent-NMC.

CORAM G.S. Patel &
Kamal Khata, JJ.
DATED: 12th September 2023

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1. Heard. We have no hesitation in rejecting this Petition. The relief is for a direction to the Respondent, the Nashik Municipal Corporation (“NMC”) to accept physical documents furnished by the Petitioner for a Tender ID 2023_NC_927971_1 for the **“supplying, erecting, commissioning of electric vehicle charging stations in the NMC area at provided locations”**. The case of the Petitioner is that the last date for submission of bids was 5th September 2023. Bids were to be uploaded by 3.00 pm on that date. According to the Petitioner, there was a “technical glitch” — of

what kind is not specified — but this apparently, or so the Petitioner alleges, did not allow the Petitioner to upload their documents.

2. A copy of the tender terms and conditions are annexed at Exhibit “B” from page 11. The relevant portion for our purposes is at page 22. Item (e) deals with opening of offers. Sub-clause (iii) read as follows:

“(iii) NMC is not responsible if due to any reason, tender documents are not uploaded on the last date of submission. To avoid network congestion proper care should be taken and may upload tender well in advance before last date & time of submission.”

3. The portal for uploading was not under the control of the Nashik Municipal Corporation but was a mandated Maharashtra Government website.

4. What cannot be disputed is that even on the Petitioner’s showing, and knowing that deadline was 3.00 pm on 5th September 2023, the Petitioner started this work of uploading documents only at 2:15 pm on the very last day, 5th September 2023. While we understand that the deadline is the outer limit, there is no reason given nor explanation offered as to why the Petitioner had to wait till the very last minute to begin the process. The Petitioner cannot have been unaware that with these online systems there may be occasionally some form of disruption (which is not admitted at this stage). Whether there was or was not a technical glitch is a disputed question of fact.

5. What the Petitioner seeks is that an exception be made for it, to have its documents considered though submitted in physical form and, until that happens, the tender should not proceed.

6. Notably, as Mr Patil points out, six other bidders have submitted their tenders online in the prescribed manner with all documents by the scheduled deadline time and date.

7. It is thoroughly unjustifiable to make this kind of an exception for the Petitioner. The Petition is rejected. No costs.

(Kamal Khata, J)

(G. S. Patel, J)