

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO.2238 OF 2023

M/s Gayatri Infrastructure,
Thr. its Partner Nitin R. Kherde,
Warud, Dist. Amravati

...Petitioner

-vs-

Municipal Council Morshi,
Thr. its Chief Officer, Morshi,
Dist. Amravati and anr.

... Respondents.

WITH
WRIT PETITION NO.2239 OF 2023

M/s S. L. Khatri and Sons,
Thr. its Partner Deepak S. Khatri
Chatri Talao Road, Amravati,
Dist. Amravati

...Petitioner

-vs-

Municipal Council Morshi,
Thr. its Chief Officer, Morshi,
Dist. Amravati and anr.

... Respondents.

Shri J. B. Kasat, Advocate for petitioners.
Shri A. B. Patil, Advocate for respondents.

CORAM : A. S. CHANDURKAR AND M. W.CHANDWANI, JJ.

DATE : APRIL 13, 2023

P.C.

Civil Application (CAW) No.1203/2023 in Writ Petition No.2238/2023

1. Since the petitioner seeks to raise additional grounds in support of the challenge raised in the writ petition, the amendment is granted. Same be carried out accordingly. Civil Application is disposed of.

Writ Petition Nos.2238/2023 and 2239/2023

2. Heard.

3. The challenge raised in these writ petitions is to the conditions in the

tender notice dated 13/03/2023 that has been issued by the respondent No.1-Municipal Council.

The petitioners are aggrieved by the condition of submitting report of their site visit with a Gio tagging report under the signature of the Chief Officer as well as submission of certificate under the joint signature of the concerned engineer of the Municipal Council and the Chief Officer indicating that the Hot Mix Plant is located within 60 kms from the farthest point of the site owned by the petitioners. The tender notice in question is dated 13/03/2023 and the On-line bids were to be submitted from 14/03/2023 to 05/04/2023. Prior thereto, a pre-bid meeting was held on 27/03/2023. On the next day a Corrigendum was issued making it mandatory for the bidder to submit such document under joint signature of the Chief Officer and its engineer. Since the petitioners apprehended that their bid would be rejected for want of counter signature on the Gio Tagging Certificate as well as the certificate with regard to possession of Hot Mix Plant, on 05/04/2023 while issuing notice it was directed that the petitioners' applications dated 31/03/2023 and 03/04/2023 be considered by the Chief Officer. Accordingly reply has been filed by the Chief Officer indicating consideration of said applications and rejection of the same on the ground that the bid documents were not submitted in the manner as required by the tender notice.

3. On hearing the learned counsel for the parties we find that inclusion of these conditions in the tender conditions is with a view to verify that the bidder is the owner of Hot Mix Plant, that it is situated within 60 kms from the farthest end of the tender site and that the plant is in a proper working condition. In the aforesaid backdrop, we do not find that the condition of requiring the certificate of ownership to be submitted under joint signature of the Town Engineer and Chief Officer is either arbitrary or unnecessary.

It is for the Municipal Council to determine its requirement while awarding work for construction of the road. Similarly, the requirement of Geo Tagging Certificate along with the photograph is to ensure that there is authenticity in that regard. Even this condition cannot be said to be unnecessary or arbitrary. We therefore do not find any legal basis to hold that these conditions in the tender document could be treated as unessential conditions of eligibility.

4. The rejection of the petitioners' applications for want of compliance with the aforesaid tender conditions therefore is a consequence of the petitioners' failing to produce the required documents alongwith their bids. We find that due opportunity was given to the petitioners to submit the requisite documents by the Municipal Council but the petitioners failed to do so. We therefore do not find any reason to exercise discretion in writ jurisdiction and grant any relief to the petitioners.

5. The Writ Petitions are thus dismissed with no order as to costs.

(M. W. Chandwani, J.)

(A. S. Chandurkar, J.)

Asmita