



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

931 WRIT PETITION NO.2915 OF 2024

Shrishri Infrastructure Pvt. Ltd.
Through it's Authorized Officer,
Rajendra Dagdu Warke,
Age 58 yrs., Occ. Service,
R/o "Lakshya", 77, Jay Nagar,
Kavyaratnawali Square,
Jalgaon – 425 001.

... Petitioner

... Versus ...

- 1 The State of Maharashtra,
Through it's Secretary,
Public Works Department,
Mantralaya, Mumbai – 32.
- 2 The Commissioner,
Jalgaon City Municipal Corporation,
Nehru Chowk, Jalgaon.
- 3 City Engineer,
Jalgaon City Municipal Corporation,
Jalgaon.
- 4 Chief Accounts Officer,
Jalgaon City Municipal Corporation,
Jalgaon.
- 5 Chief Accounts Auditor,
Jalgaon City Municipal Corporation,
Jalgaon.
- 6 Deputy Commissioner,
Jalgaon City Municipal Corporation,
Jalgaon.

... Respondents

...

Mr. S.H. Tripathi, Advocate for petitioner

Mr. N.S. Tekale, AGP for respondent No.1

...

AND

928 WRIT PETITION NO.2912 OF 2024

Shrishri Infrastructure Pvt. Ltd.
Through it's Authorized Officer,
Rajendra Dagdu Warke,
Age 58 yrs., Occ. Service,
R/o "Lakshya", 77, Jay Nagar,
Kavyaratnawali Square,
Jalgaon – 425 001.

... **Petitioner**

... **Versus** ...

- 1 The State of Maharashtra,
Through it's Secretary,
Public Works Department,
Mantralaya, Mumbai – 32.
- 2 The Commissioner,
Jalgaon City Municipal Corporation,
Nehru Chowk, Jalgaon.
- 3 City Engineer,
Jalgaon City Municipal Corporation,
Jalgaon.
- 4 Chief Accounts Officer,
Jalgaon City Municipal Corporation,
Jalgaon.
- 5 Chief Accounts Auditor,

Jalgaon City Municipal Corporation,
Jalgaon.

6 Deputy Commissioner,
Jalgaon City Municipal Corporation,
Jalgaon.

... **Respondents**

...

Mr. S.H. Tripathi, Advocate for petitioner

Mr. N.S. Tekale, AGP for respondent No.1

...

**CORAM : SMT. VIBHA KANKANWADI &
S.G. CHAPALGAONKAR, JJ.**

DATE : 15th MARCH, 2024

ORDER : (PER : SMT. VIBHA KANKANWADI, J.)

1 In both these petitions the petitioner is challenging the order dated 01.03.2024 by respondent Nos.2 to 6 and then prays for quashing and setting aside tender notice issued by respondent No.2 and to declare the petitioner as qualified in the Technical Bid.

2 The petitioner has taken part in the various tenders floated by Jalgaon City Municipal Corporation. The Technical Bid filed by the petitioner was rejected on two grounds; 1) No document showing similar type of work

has been done under the same name by which the tender bid has been submitted and 2) No document is annexed in support of the ownership of RMC plant and the land. These reasons are in respect of all the tenders in which the petitioner has taken part involved in both these petitions.

3 The learned Advocate appearing for the petitioner submits that the petitioner had uploaded all the requisite documents, still petitioner has been disqualified. Further, no time was granted to cure the defects.

4 Taking into consideration the documents, contents of the petition and submissions it is not even necessary to issue notice to respondent Nos.2 to 6. Learned AGP has waived notice for respondent No.1.

5 We have seen the documents, which the petitioner had attached along with the Bid submitted by it, tender condition and the reasons for rejection. As regards first reason, it is stated that similar type of work certificate has not been attached. Petitioner had annexed bill at page No.34 and work order in respect of another tender. It is then stated that in respect of the said tender the petitioner was qualified and it was in the same name. Here, it is to be noted that the document at page No.34 does show that it was in respect of construction of District Library Building at Jalgaon, whereas the tender now which is floated is for construction of Precast Compound wall and

Concrete Roads. Therefore, it cannot be said that it was the same type of work.

6 The second objection is that the documents about ownership of RMC plant and ownership document in respect of the land on which the plant is erected has not been submitted. The petitioner has attached Google Map of the RMC plant. Petitioner has also given his own certificate about RMC plant. However, the petitioner has not produced documents of ownership. Under such circumstance, the petitioner had not demonstrated that the petitioner could have been held eligible for the tender. Further, in view of the decision by this Court as well as Hon'ble Apex Court guide us in saying that the Court should be slow in interfering in tender matters. We may take help of the decision in **M/s. N.G. Projects Limited vs. M/s. Vinod Kumar Jain and others** [2022 LiveLaw (SC) 302], which was then relied by this Court in **M/s. Pharmaveda (I) Private Limited vs. Chief Executive Officer, Zilla Parishad, Nandurbar** in Writ Petition No.14938 of 2023 decided by this Court on 18.01.2024. In **M/s. N.G. Projects Limited** (supra) it has been held that -

“23. In view of the above judgments of this Court, the Writ Court should refrain itself from imposing its decision over the decision of the employer as to whether or not to accept the bid of a tenderer. The

Court does not have the expertise to examine the terms and conditions of the present-day economic activities of the State and this limitation should be kept in view. Courts should be even more reluctant in interfering with contracts involving technical issues as there is a requirement of the necessary expertise to adjudicate upon such issues. The approach of the Court should be not to find fault with magnifying glass in its hands, rather the Court should examine as to whether the decision-making process is after complying with the procedure contemplated by the tender conditions. If the Court finds that there is total arbitrariness or that the tender has been granted in a mala fide manner, still the Court should refrain from interfering in the grant of tender but instead relegate the parties to seek damages for the wrongful exclusion rather than to injunct the execution of the contract. The injunction or interference in the tender leads to additional costs on the State and is also against public interest. Therefore, the State and its citizens suffer twice, firstly by paying escalation costs and secondly, by being deprived of the infrastructure for which the present-day Governments are expected to work.”

Hence, the petitions are required to be dismissed at the threshold. Accordingly, both the Writ Petitions are dismissed.

(S.G. CHAPALGAONKAR, J.)

(SMT. VIBHA KANKANWADI, J.)