



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

WRIT PETITION NO.6621 OF 2021

Om Sai Swayamrojgar Suraksha Rakshak
Va Either Seva Puravtha Sahakari
Sanstha, Nanded, H. No.1-14-813 (Plot No.56),
Anandnagar, Nanded, Taluka and District-Nanded,
Through its Chairman,
Laxminarayan S/o Laxminarsu Rayabarpur,
Age-69 years, Occu:Private Service,
R/o-Anandnagar, Nanded,
Taluka and District-Nanded.

...PETITIONER

VERSUS

- 1) The State of Maharashtra,
Through Secretary,
Urban Development,
Mantralaya, Mumbai-32,
- 2) The Nanded Waghala City Municipal
Corporation, Nanded,
Through its Commissioner,
NWCM Corporation Office, Nanded,
- 3) Chatrapati Shivaji Swayamrojgar
Seva Sahakari Sanstha, Nanded,
Through its Chairman,
Vatsalyanagar Society, Plot No.157, Cidco,
Nanded, Taluka and District-Nanded.

...RESPONDENTS

...
Mr. S.R. Bagal Advocate for Petitioner.
Mr. S.K. Shirse, A.G.P. for Respondent No.1.
Mr. R.K. Ingole Advocate for Respondent No.2.
Mr. D.M. Shinde Advocate for Respondent No.3.
...

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

DATE : 19th JANUARY, 2024

ORDER [PER SMT. VIBHA KANKANWADI, J.] :

1. Present Petition has been filed for following reliefs:

"B] By issuing writ of Mandamus or any other appropriate writ or directions in the like nature thereby the respondent authorities more particularly the respondent no.2 may kindly be directed to disqualify the respondent no.3 from the Tender process issued for providing 8 Sanitary Workers / Housekeeping Staff for Hospital at Haidarbag, Nanded and for that purpose the recommendation and proposal dt. 23.04.2021 may kindly be quashed and set aside.

C] By issuing writ of Mandamus or any other appropriate writ or directions in the like nature thereby the respondent authorities more particularly the respondent no.2 may kindly be directed to allot the work/contract of providing 8 Sanitary workers / Housekeeping Staff for Hospital at Haidarbag, Nanded run by respondent No.2 to the present petitioner by declaring it to be successful bidder.

D] In the alternatively, the respondent No.2 may kindly be directed to decide the representation / objection of the petitioner dt. 21.02.2021 by giving opportunity of hearing to the petitioner."

2. By way of amendment to the Petition, following relief has been added:-

"B1] By issue of writ of certiorari or any other appropriate writ or directions in the like nature thereby the impugned work order dt.

2.07.2021 bearing Outward No. 3089 issued by the respondent No.2 in favour of respondent No.3 may kindly be quashed and set aside.”

3. Heard learned Advocate Mr. Bagal for the petitioner, Mr. Shirse, learned AGP for respondent No.1, Mr. Ingole, learned Advocate for respondent No.2 and Mr. Shinde, learned Advocate for respondent No.3.

4. The facts leading to the Petition are that the petitioner is a registered cooperative society engaged in the work of providing labours for performing different types of services to various institutions, local bodies, organizations etc. Respondent No.2 had issued tender notice on 9th December 2020 inviting the tenders from eligible societies for providing 8 Sanitary Workers / Housekeeping Staff for its hospital at Haidarbag area, Degloor Naka, Nanded. The last date for submission of the tender was 18th December 2020. The petitioner had submitted the tender. So also respondent No.3 had also submitted the tender. It was declared that the bid submitted by respondent No.3 was the lowest bid. It is contended on behalf of the petitioner that the rate quoted by respondent No.3 will not comply with the tender requirement. It will not adhere to the provisions of the Minimum Wages Act, 1948, the Employees Provident Fund Act 1952, the

Employees State Insurance Act, 1948 and the Goods and Service Tax Act, 2017. The said rates by respondent No.3 are defective and illegal. Therefore, the initial prayer was for disqualification of respondent No.3 and after amendment, to quash and set aside the work order issued to respondent No.3.

5. Affidavit-in-reply has been filed by Shri Ajitpal Singh Inderjit Singh Sandhu, Estate Manager, Nanded-Waghala City Municipal Corporation, Nanded, on behalf of respondent No.2. There is no dispute as regards the facts, but then it is stated that the minimum wages for the unskilled employee for Zone-I were Rs.10,021/- per month, special allowances need to be paid as per the directions issued from time to time by the Labour Commissioner, Mumbai. The special allowances at the relevant time were Rs.3,332/- per month. Therefore, the wages would have come to Rs.13,353/- per month per person, whereas respondent No.3 had quoted the rate at Rs.14,080/- per month. Therefore, the tender is not violating any tender condition. Additional affidavit has also been filed by Gulam Mohammed Sadique, Estate Manager of respondent No.2 explaining the queries those were made by this Court. Additionally, it was stated that the work order has also been issued on 2nd July 2021

to respondent No.3. The chart was then given, explaining how each and every worker is getting the amount of wages.

6. The first and foremost fact that is required to be considered is, whether the petitioner was eligible and his tender was complying with all the requirements of the tender notice, when admittedly the tender amount quoted by respondent No.3 has been said to be the lowest bid. The learned Advocate for the petitioner has fairly submitted that the tender amount quoted by the petitioner was also not mitigating the requirements of the tender conditions on the interpretation submitted by the petitioner itself. Now, if this is the position, then the constitutional powers cannot be exercised in favour of the petitioner. If the petitioner would have complied with all the requirements of the tender conditions as per his own interpretation, then the matter could have been considered. The petitioner cannot then challenge the decision of respondent No.2 to give the contract to respondent No.3 contending that it is not as per the terms of tender.

7. Another fact to be noted is that the work order has been issued way back on 2nd July 2021 and as on today those persons have put in substantial service. The said tender was for three

years from 9th December 2020. But when the work order has been issued on 2nd July 2021, even if we consider that it is for three years from that date, then only six months are now left. Therefore, at this stage, the interference is unwarranted. The persons to whom respondent No.3 has employed, have not made any complaint that they are not getting the minimum wages and other allowances. Taking into consideration all these aspects, we do not find that constitutional powers can be exercised and therefore, Writ Petition deserves to be dismissed.

8. The Writ Petition stands dismissed.

[S.G. CHAPALGAONKAR]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

asb/JAN24