



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

Writ Petition No. 11483 Of 2024

Rishu Kishu Industries Pvt. Ltd.
Through its Director
Dattatrao Shankarrao Khalte
Age : 62 years, Occ. Director,
R/o : Sai Shankar, Parvati Nagar,
Parali-V, Tal. Parali-V, Dist. Beed.

...Petitioner

Versus

1. Parali Municipal Council, Parali (V)
Tal. Parali (V), Dist. Beed.
2. The Chief Officer,
Municipal Council, Parali (V)
Tal. Parali (V), Dist. Beed.
3. J K Construction and Company,
Azad Nagar, Parali(V), Dist. Beed,
Through its Pro. Khan Jafar Usman,
Age- 35 years, Occ- Business,
R/o- Azad Nagar, Parali (V),
Tal- Parali, Dist- Beed.
4. Vishwashakti Construction Pvt. Ltd.,
Through its Pro./Partner,
Ashok Ramchandra Jethwani
Age – 48 years, Occ- Business,
R/o- Plot No.80/81, Kalyan Nagar,
Basamt Road, Parbhani – 431401.

...Respondents

AND

Writ Petition No. 11528 Of 2024

Rishu Kishu Industries Pvt. Ltd.

Through its Director
 Dattatrao Shankarrao Khalte
 Age : 62 years, Occ. Director,
 R/o : Sai Shankar, Parvati Nagar,
 Parali-V, Tal. Parali-V, Dist. Beed.

...Petitioner

Versus

1. Parali Municipal Council, Parali (V)
 Tal. Parali (V), Dist. Beed.
2. The Chief Officer,
 Municipal Council, Parali (V)
 Tal. Parali (V), Dist. Beed.
3. J K Construction and Company,
 Azad Nagar, Parali(V), Dist. Beed,
 Through its Pro. Khan Jafar Usman,
 Age- 35 years, Occ- Business,
 R/o- Azad Nagar, Parali (V),
 Tal- Parali, Dist- Beed.
4. Spectrum Infrastructure
 Through its Pro. Ashish Subhashchandra Chandak
 Age – 45 years, Occ- Business,
 R/o- 3rd Floor Spectrum,
 Suyojit Lawns, Plot No.10/A,
 Kamgar Nagar, Satpur,
 Tal and Dist.- Nashik-422007

...Respondents

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Senior Advocate Mr. P. R. Katneshwarkar alongwith Mr. A.A.
 Fulfagar i/by Mr. M.V. Nagargoje, Advocates for the Petitioners.

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**CORAM : MANGESH S. PATIL &
 SHAILESH P. BRAHME, JJ..**

DATE : 15 OCTOBER 2024

FINAL ORDER [Per: Shailesh P. Brahme, J.] :

. Heard Senior Advocate Mr. P.R. Katneshwarkar holding for Mr. Anuj Fulfagar for the petitioners. Both the petitions raise similar challenge and the facts and circumstances are also common. These petitions are heard together. We propose to refer to papers of Writ Petition No.11483/2024.

2. Being aggrieved by disqualification in the technical assessment, the petitioner has approached this Court. These are two distinct tender processes involving construction works of Shri. Sketra Parali Vajinath Jyotirling Vikas Arakhada at Parali(V), District Beed.

3. The petitioner which is the same entity in both the petitions, participated in the tender processes by submitting bids in pursuance of tender notice. Technical bid was scheduled to be opened on 24.09.2024, but it was postponed. On 07.10.2024, the petitioners received a mail alongwith letter dated 04.10.2024 forwarded by respondent no.1/Municipal Council, calling upon it to submit the documents which are enumerated in the list. It is stated that the documents were to be submitted on 07.10.2024 by 11:00 am. in the office, otherwise bid would be invalidated. The petitioners could hardly get time of 30 minutes to comply with the mail dated 07.10.2024. Surprisingly on same date at about 04:53 pm., the petitioners' technical bids were rejected.

4. Learned Senior Counsel Mr. P.R. Katneshwarkar submits

that letter dated 04.10.2024 was never received by the petitioner before 07.10.2024. On 07.10.2024 for the first time, it learnt about the deficiencies and thereafter within short time, it was disqualified. This action is arbitrary and highhanded. He would submit that the tendering authority failed to follow the schedule. The petitioner was not given opportunity to submit the documents. Whereas other bidders were given timely intimation on 04.10.2024 itself so as to get them time to comply the deficiencies. It is further submitted that on 07.10.2024, the representation was made to the respondent no.1, ventilating the grievance and stating that all the documents are not relevant and the relevant documents were already submitted alongwith bid. To be on safer side, again the documents were tendered alongwith representation. However, neither the representation nor the documents were considered.

5. The tender document produced on record shows that by Clause No.2.1, it was imperative for the bidders to submit the documents with their bids. They were pertaining to eligibility. The petitioner cannot be said to be oblivious of the requirement. There is no averment in the petitions that the documents in question were already part of their bid. There is every reason to infer that it failed to submit documents with their bids.

6. It is tried to be demonstrated that no adequate time was given to the petitioner to remove the shortcomings in the bids.

The petitioner failed to submit as many as eleven documents with the bids. It is not a case that there was marginal deficiency in the bids. There is no corroboration for the fact that letter dated 04.10.2024 was forwarded to the petitioner first time on 07.10.2024. We find that there are disputed questions of facts. It cannot be inferred that petitioner was not given opportunity to cure the defects.

7. We have perused letter dated 04.10.2024 and the nature of the documents demanded from the petitioner. The documents are pertaining to eligibility and those are vital. There are as many as eleven such documents which were lacking in the bids. The petitioner casually submitted the bids. We do not find any arbitrariness or procedural impropriety so as to cause interference in the tender processes. We, find no merit in the petitions. Both the petitions are dismissed.

SHAILESH P. BRAHME
JUDGE

MANGESH S. PATIL
JUDGE