



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 11938 OF 2024

Ravi Pickles and Spices India Pvt. Ltd.
Ground Floor, CIDCO, P-37 Service Industries,
Town Centre, Chh. Sambhajinagar,
Through its Director,
Ravindra Chandrakant Jain,
Age : 55 years, Occu : Business,
R/o : Sumanchandra P No. 18/1,
C-5, Town Center CIDCO VTC,
Chh Sambhajinagar

.. Petitioner

Versus

State of Maharashtra Through
Secretary for School Education and
Sports Department, Mantralaya, Mumbai
and another

.. Respondents

**WITH
WRIT PETITION NO. 11939 OF 2024**

Ravi Pickles and Spices India Pvt. Ltd.
Ground Floor, CIDCO, P-37 Service Industries,
Town Centre, Chh. Sambhajinagar,
Through its Director,
Ravindra Chandrakant Jain,
Age : 55 years, Occu : Business,
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C-5, Town Center CIDCO VTC,
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.. Petitioner

Versus

State of Maharashtra Through
Secretary for School Education and
Sports Department, Mantralaya, Mumbai
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.. Respondents

...
Advocate for petitioner in both WPs : Mr. P.V. Barde
AGP for the respondent – State : Mr. V.M. Kagne
...

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

DATE : 23 OCTOBER 2024

ORDER (MANGESH S. PATIL, J.) :

Heard learned advocate Mr. Barde for the petitioner in both these petitions and learned AGP Mr. Kagne.

2. The petitioner who is the same entity, is taking exception to clause 6(B)(i) and 6(B) (ii) in the technical eligibility criterion prescribed in the RFP notice dated 10-10-2024, published by respondent no. 2 for two different works, one for supply and installation of sports goods in Maharashtra state and second for supply, installation and maintenance of gymkhana equipments and outdoor gymkhana equipments in the State of Maharashtra.

3. Mr. Barde would take us through these conditions and would submit that *ex facie*, these eligibility conditions are vague and have the potential of creating confusion. There is no clarity. The conditions are arbitrary and the RFP notice suffers from *mala fides*. He would also submit that even the stipulation of having experience of 500 locations by single supply order is tailormade and is intended to keep out the small bidders.

4. When we asked Mr. Barde as to if the petitioner had raised any objection in a pre-bid conference which was scheduled to be held on 16-10-2024 at 11.30 am, as per clause 5(k) of the RFP notice, he would submit that the petitioner had raised the objection orally.

Meaning thereby that if at all the stipulation in clause 6(B)(i) regarding technical eligibility was confusing and if even the petitioner had objection to the technical eligibility criterion provided in clause 6(B)(ii), there was opportunity for it to seek clarification or modification of the RFP notice. Admittedly, the petitioner had failed to participate in the pre-bid conference and even subsequently, submitted his bids in both the tender processes without any demur.

5. We are alive that even before participation in the tender process, a prospective bidder can legally take exception to the terms and conditions, as laid down in the matter of ***Ramana Dayaram Shetty V. International Airport Authority of India; (1979) 3 SCC 489.*** However, since the petitioner without any demur participated in the tender process by filing its bids, in anticipation of his disqualification, he is now seeking to take exception to afore-mentioned two clauses.

6. In our considered view, extraordinary powers of this Court under Article 226 of the Constitution of India, cannot be resorted to in such peculiar facts and circumstances.

7. The petitions are dismissed.

[SHAILESH P. BRAHME]
JUDGE

[MANGESH S. PATIL]
JUDGE

arp/