



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

948 WRIT PETITION NO. 12040 OF 2024

SHREE SWAMI SERVICES THROUGH ITS PROP LAXMAN KERBA KAMBLE

VERSUS

THE STATE OF MAHARASHTRA THROUGH THE PRINCIPAL SECRETARY
AND OTHERS

...

Advocate for the Petitioner : Mr. Tukaram Maruti Venjane

AGP for Respondent nos. 1 to 5: Mr. S.R. Yadav-Lonikar

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

DATE : 25.10.2024

PER COURT :

Heard.

2. Issue notice.
3. The learned A.G.P. waives service for respondent nos. 1 to 5.
4. The petitioner, who has been in the business of providing cleaning services, is challenging the tender process as late as after issuance of the work order to respondent no. 6, who is a successful bidder.
5. The learned advocate for the petitioner would submit that under some interim arrangement, the petitioner has been providing the service to the Government Medical College, Latur. The tender notice was published. Finding that some of the conditions were harsh and cumbersome, he has raised specific objection in a pre-bid meeting. Those were not considered. The petitioner thereafter participated in the tender process but was disqualified at the technical evaluation. He was under impression that his grievance would be considered at some future time, but ultimately the tender process has culminated in issuance of the work order.
6. The learned advocate would further submit that in similar matters, same conditions have been challenged by few participants like **Anand Swayamrojgar Berojgar Seva Sahakari Sanstha Maryadit Through its**

Chairman and others Vs. State of Maharashtra, through its Principal Secretary and others, in Writ Petition No. 9150/2024. This Court has been entertaining this petition and even has passed the order directing the work order that was to be issued to be subject to the final outcome of the petition. The petitioner is also equally aggrieved by the same stipulations in the tender document.

7. The learned A.G.P. would submit that apart from the petition before this bench similar petitions questioning the same tender process have been filed at the Principal Seat and a praecipe has been moved by the State for clubbing all these matters.

8. It is quite evident that the petitioner is merely seeking to challenge the tender process and the work order issued to respondent no. 6. Admittedly, he was taking exception to some of the stipulations in the tender notice and had participated in the pre-bid meeting. For whatever reason those remained intact. He thereafter filled in the bid, participated in the tender process. He was disqualified at the technical evaluation. He never challenged it. After the tender process has culminated in issuance of work order in favour of respondent no. 6 on 11.10.2024, he has chosen to file this petition.

9. In our considered view, once having participated in the tender process with open eyes and even accepted his disqualification at the technical evaluation by not seeking to take exception immediately, the petitioner is estopped from raising any issue touching the terms and conditions of the tender document. This is clearly an after thought. The request of the petitioner questioning the tender process having participated and failed to get the work cannot be countenanced.

10. The writ petition is dismissed.

(SHAILESH P. BRAHME, J.)

(MANGESH S. PATIL, J.)

mkd/-