

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.5653 OF 2024

**BASAVRAJ
GURAPPA
PATIL**

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Date: 2024.04.19
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Gurunath Goma Mhatre

..... Petitioner

Vs.

City and Industrial Development
Corporation of Maharashtra Ltd. & Ors.

..... Respondents

Shri Vijay Kurle for the Petitioner

Shri G. S. Hegde, Senior Advocate i/b. Ms. P. M. Bhansali for
Respondent – CIDCO.

Shri P. P. Kakade, Government Pleader with Shri O. A.
Chandurkar, Additional Government Pleader and Mrs. Snehal S.
Jadhav, AGP for Respondent – State

**CORAM: DEVENDRA KUMAR UPADHYAYA, CJ. &
ARIF S. DOCTOR, J.**

DATE : APRIL 19, 2024

P.C.

1. Heard Shri Vijay Kurle, learned Advocate representing the
Petitioner and Shri Hegde, learned Senior Advocate assisted by
Adv. P. M. Bhansali.

2. Rule.

Rule is made returnable forthwith.

With the consent of the parties, the petition has been taken
up for final hearing.

3. By instituting the proceedings of this petition under Article 226 of the Constitution of India, the Petitioner has challenged the notice dated 11th March 2024 inviting bid by Respondent No.1 – CIDCO for house-keeping, cleaning, sweeping and sanitation services for Railway Station Complex & Forecourt area, Metro Stations of Navi Mumbai. Specific challenge has been made to clauses 9 and 10 of the mandatory eligibility criteria as given in the said Notice Inviting Bid. Clauses 9 and 10 of the impugned Notice Inviting Bid are extracted hereunder:

“9) Maximum two bids to be awarded in case the same bidder found lowest in more than two bids.

10) The necessary statutory compliances / obligations towards contractual workers under SWM 2016 (Amendments if any) shall be complied by the Contractor as applicable.”

4. It has been argued by learned Counsel representing the Petitioner that putting a condition that in case the same bidder is found lowest in more than two bids, he shall be awarded maximum two bids, is unreasonable as the same, ultimately, may incur loss to the exchequer. As regards clause 10, it has been argued by the learned Counsel for the Petitioner that mandatory condition as contained in said clause is vague, inasmuch as that it does not specify as to what are the statutory obligations and compliances which are to be ensured in respect

of contractual workers under the Solid Waste Management Rules, 2016.

5. Shri Hegde, learned Senior Advocate has opposed the Writ Petition stating that the Petitioner has already participated in the bid process and hence, having once submitted his bid, he cannot be permitted to challenge the bid conditions. Shri Hegde has further submitted that there is no vagueness so far as clause 10 is concerned and also that keeping a condition that if the same bidder is found lowest in more than two bids, he shall be awarded maximum two bids only, is the prerogative of the tendering authority, where the Petitioner having participated in the tender process, cannot be said to be having any grievance.

6. Having heard learned Counsel for the parties and perused the records available before us on this petition, we are not inclined to interfere in this petition for the reasons which are as below:

(a) The Petitioner has already participated in the tender process and as such he having acceded to tender conditions, cannot be permitted to challenge the same.

(b) It is well settled principle of law that according to the need and requirement of the work to be executed, it is the tendering authority which is the best judge of putting a particular condition of tender.

7. In this case, the tendering authority is Respondent No.1 – CIDCO, which in its wisdom, has put a condition that in a situation where the same bidder is found lowest in more than two bids, the maximum two bids will be awarded to such bidder. Such a condition appears to have been made part of the conditions of tender according to the requirement and need of the tendering authority i.e. CIDCO.

8. As observed above, since the Petitioner has already participated in the bid, we do not find that any ground for challenge to clause 9 of the tender conditions is available to the Petitioner.

9. In respect of clause 10 of the tender conditions, what we find is that it clearly stipulates that the statutory compliances/obligations towards contractual workers under the Solid Waste Management Rules, 2016 shall be complied with by the contractor/tenderer. Such a condition cannot be said to be vague in any manner. The statutory compliances/obligations to be complied with by the contractor/tenderer can very well be found mentioned with explicit recitals in the Solid Waste Management Rules, 2016. Such a condition, thus, in our opinion, does not suffer from vagueness.

10. For the reasons aforesaid, the Writ Petition fails, which is hereby dismissed.

11. Rule is discharged.

12. However, there will be no order as to costs.

(ARIF S. DOCTOR, J.)

(CHIEF JUSTICE)