

VRJ

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

WRIT PETITION NO.10131 OF 2024

Nalanda Bahuddeshiya Sewabhavi
Sanstha, Through Its Authorized
Representative, Mr. Bhaskar Kaduba
Shinde ... Petitioner

V/s.

The State of Maharashtra,
Through Its Secretary, Tribal
Development Department & Ors. ... Respondents

WITH

WRIT PETITION NO.10132 OF 2024

Anusuchit Jati Jamati Shikshan
Sanstha (Regd.), Through Its
Authorized Representative,
Mr. Bhushan Govind Ramteke ... Petitioner

V/s.

The State of Maharashtra,
Through Its Secretary, Tribal
Development Department & Ors. ... Respondents

WITH

WRIT PETITION NO.10705 OF 2024

Anusuchit Jati Jamati Shikshan
Sanstha (Regd.), Through Its
Authorized Representative,
Mr. Bhushan Govind Ramteke ... Petitioner

V/s.

The State of Maharashtra,
Through Its Secretary, Tribal
Development Department & Ors. ... Respondents

Mr. Nitin Thakkar, Senior Advocate with Mr. Sanjeev
Sawant, Mr. B. K. Barve and Mr. Sandeep Barve
i/by B. K. Barve & Co. for the petitioner in all the

writ petitions.

Mr. P. P. Kakade, Government Pleader with Mr. O. A. Chandurkar, Additional Government Pleader and Ms. G. R. Raghuwanshi, AGP for the State – respondent Nos.1 to 3.

Mr. D. P. Singh for the respondent – NIC i/by Ms. Sapana Kapoor.

CORAM : DEVENDRA KUMAR UPADHYAYA, CJ & AMIT BORKAR, J.

DATED : AUGUST 19, 2024

P.C.:

1. The contention in these writ petitions raised on behalf of the petitioners primarily is that on account of technical glitch faced by the petitioners, they were unable to submit their bids without there being any fault on their part. According to the petitioners, for the technical glitch, which prevented the petitioners to submit their bids, the responsibility has to be saddled with the respondents and not with the petitioners.

2. In Writ Petition No.10705 of 2024, it has been argued on behalf of the petitioners that on submission of the bid the portal showed a message that bid was submitted successfully, however, the bid of the petitioner is not being considered. To the said submission, learned Additional Government Pleader has replied that in fact the petitioner did not exercise the freezing option, as a result of which the bid submitted by the petitioner in this writ petition cannot be considered.

3. The rival contentions raised by the learned counsel

appearing for the petitioners and learned Additional Government Pleader representing the State – authorities can better be appreciated in case the Court seeks a report from some technical expert. Learned counsel for the petitioners as also learned Additional Government Pleader, on instructions, have given their consent for issuing a direction for technical analysis by an expert.

4. Accordingly, we request the Head of the Department of Computer Science, Indian Institute of Technology, Bombay, to appoint a faculty member in the department of Computer Science to prepare a report in respect of these three petitions giving his opinion as to whether the petitioners were prevented from participation in the bid process on account of some technical glitch for which is it the petitioners or the State – authorities are responsible. The petitioners as also the appropriate authority in the State Government of the concerned department shall present before the expert to be appointed under this order by the Head of the Department of Computer Science, Indian Institute of Technology, Bombay, gist of their submissions in brief and supporting documents, if any. The Head of the Department of Computer Science, Indian Institute of Technology, Bombay, is requested to appoint the expert, as observed above, within three days from the date he receives a copy of this order. The petitioners as also the representatives of the State – respondents shall submit the gist of their submissions before the expert to be appointed under this order within next seven days.

5. The expert, thereafter, shall conduct the necessary

inquiry, and if needed he shall take all steps which may be necessary for arriving at a correct conclusion as to whether for technical glitch, if any, responsibility is to be saddled with the petitioners or with the State – respondents. The said inquiry shall be conducted within fifteen days from the receipt of the gist of submissions by the respective parties by the expert.

6. We also direct that the petitioner of each of these three writ petitions shall pay the expert a fee of Rs.75,000/-, each, for conducting the inquiry and submitting the report before this Court. The report to be prepared on inquiry by the expert under this order shall be placed before this Court through the Registrar General. The Registrar General will communicate this order to the Head of the Department of Computer Science, Indian Institute of Technology, Bombay, and will also co-ordinate and extend all his cooperation to all concerned to ensure inquiry under this order is conducted smoothly.

7. Mr. Nitin Thakkar, learned Senior Advocate, has submitted that apart from either the petitioners or the respondents being responsible for non-submission of the bid by the petitioners, there may be a third possibility where fault may not be attributable either to the petitioners or to the State – authorities, but it may occur on account of some involuntary act at the end of the parties.

8. The expert in its report shall throw light on this aspect of the matter as well. We further direct that all the parties shall extend fullest cooperation to the expert appointed under this

order.

9. In the meantime, we also provide that any further decision, which may be taken by the State – authorities in respect of the subject tender, shall be subject to further orders, which may be passed on these petitions.

10. Stand over to **20 September 2024**. To be placed **High on Board**.

(AMIT BORKAR, J.)

(CHIEF JUSTICE)