

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

BALAJI
GOVINDRAO
PANCHAL

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Date: 2024.10.14
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WRIT PETITION NO.13109 OF 2024

Mahalaxmi Automotives Pvt. Ltd.

...Petitioner

Versus

The State of Maharashtra & Ors.

...Respondents

Dr. Milind Sathe, Senior Advocate a/w Surel Shah, Senior Advocate i/by Jagdish Aradwad Reddy, for the Petitioner.

Mr. P. P. Kakade, Govt. Pleader a/w O. A. Chandurkar, Addl. Govt. Pleader & G. R. Raghuwanshi, for the Respondent No.1/State.

Mr. A. V. Pawaskar, for Respondent Nos.2 to 4.

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

DATE : 11th OCTOBER, 2024

P. C.

1. Learned counsel for the Petitioner seeks leave of the Court to amend the Petition in terms of the draft amendment tendered today. The draft amendment is taken on record.

2. Having regard to the nature of amendment sought, leave is granted to amend the Petition in terms of the draft amendment. Learned counsel for the Petitioner shall incorporate the necessary amendment during the course of the day. Re-verification is dispensed with.

3. The Petitioner shall furnish amended Petition within a week.

4. Issue notice to Respondent Nos.1 to 3 and newly added Respondent No.5, returnable on **18th November, 2024**. To be placed **high on board**.

5. Learned AGP waives notice on behalf of Respondent No.1 – State. Mr. A. V. Pawaskar appears for Respondent Nos.2 to 3 and waives service of notice. They pray for and are granted two weeks time to file affidavit-in-reply, to which, rejoinder affidavit, if any, shall be filed by the Petitioner by the next date of listing.

6. It has been argued by Mr. Milind Sathe, learned senior counsel representing the Petitioner that the screenshot of the information available on the portal reveals that on 29th September, 2024 at 05:22 p.m., out of eight bidders only one, namely Ajil Fibertech had qualified in the bid process and rest of the bidders have been depicted in the said information as disqualified, however, the information available on the web portal on 10th October, 2024 shows that out of eight participants, four were disqualified and four had qualified in the bid process, including Ozone Envirotech, which firm is shown to have been disqualified on 29th September, 2024. The submission is that the tender has been allotted, now to Ozone Envirotech, which was initially shown to have been disqualified on 29th September, 2024. In these facts, the submission of Mr. Milind Sathe is that the tender process undertaken by the Respondent–Zilla Parishad cannot in any manner be said to be

fair. Mr. A. V. Pawaskar representing the Zilla Parishad has, however, stated that initially certain participants were declared to be disqualified, however, they were granted opportunity to remove the defects/overcome the shortfall and in re-evaluation the bidders were found to have qualified, including Ozone Envirotech.

7. If that is the process adopted by the Respondent – Zilla Parishad, such a process adopted by the Zilla Parishad, *prima-facie*, appears to be unfair, in as much as, once a participating firm is declared to have disqualified, giving opportunity to such a firm to remove the defects etc. does not appear to be a proper course. Such opportunity has to necessarily precede the evaluation and it is not that the evaluation should precede the opportunity. For the said reason, as an interim measure, it is directed that till the next date of listing, the impugned work order shall not be given effect.

[AMIT BORKAR, J.]

[CHIEF JUSTICE]