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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION NO.5261 OF 2024

**Kohli Roadlines, a Partnership Firm,
Through Its Authorized Partner**

... Petitioner

V/s.

**1. Maharashtra State Power Generation
Company Ltd.**

A Government Corporation incorporated
under the Indian Companies Act, 1956,
having its registered office at
PRAKASHGAD, Plot No.G-9, 3rd floor,
Bandra (East) Mumbai – 400 051,
Through its Chief Engineer.

2. M/s. Fuelco Coal India Limited,

through its Managing Director, Shri
Navalkishor S/o Ganpatlalji Agrawal,
having its registered office at 926-A,
Fuwati Palace, Deshpande Layout,
Nagpur

**3. N. N. Global Mercantile Pvt. Ltd.
Chandrapur**

A company registered under the
Companies Act having address at BCC
House, Plot No.75/2, Wadgaon Nagpur Road
Chandrapur 442401.

4. Sai Krupa Transport

Gadchandur Road, Opposite HC petrol
Pump, Rajura 442905

5. VEDVYAS

A company registered under the
Companies Act having an address at
01, Annapurna Bhawan, Mission
Road, Sundargarh, Odissa - 770001

... Respondents

Mr. Mandar Soman for petitioner.

Mr. Shyam Dewani a/w Ms. Amita Chaware with
Mr. Chirag Chanani for respondent No.1.

Smt. Pratibha Chavan Mali, Deputy Law Officer,
MAHAGENCO and Mr. Kundar Pimple (S.E.) MAHAGENCO,
are present.

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

RESERVED ON : DECEMBER 17, 2024

PRONOUNCED ON DECEMBER 19, 2024

JUDGMENT: (Per Amit Borkar, J.)

1. By the present petition, the petitioner challenges Clause 1.12(iv) of the tender dated 25th September 2024, and seeks a direction to the respondents to remove the requirement of a dedicated railway siding stipulated as part of the eligibility criteria. The petitioner contends that the said condition is arbitrary, unreasonable, and violative of the principles of fair competition under Article 14 of the Constitution of India.

2. At the outset, it is necessary to note that the very same

condition in the same tender document was the subject matter of challenge in Writ Petition No. 4765 of 2024. This Court, by its detailed judgment and order dated 11th October 2024, dismissed the petition on merits, upholding the validity of the said tender condition. The Court held that the requirement of a dedicated railway siding has a clear nexus with the objective sought to be achieved—ensuring timely and efficient transportation of coal to meet the 21-day minimum coal stock requirement mandated by the Central Electricity Authority, Ministry of Power.

3. It is further relevant to note that a review petition against the judgment dated 11th October 2024 has also been dismissed by this Court, thereby reaffirming the legality and reasonableness of the condition in question. The judgment as of today has not been challenged in the superior court , and the principles of res judicata and constructive res judicata as enshrined under Section 11 of the Code of Civil Procedure, 1908, come into play. A co-bidder, such as the present petitioner, cannot be permitted to re-agitate or challenge the same condition in this court, as this would amount to reopening an issue that has already been conclusively decided.

4. It is well-settled that courts should be slow to interfere in tender matters unless the conditions are patently arbitrary, discriminatory, or violative of the principles enshrined in Article 14 of the Constitution. In this context, reliance may be placed on the judgment of the Hon'ble Supreme Court in ***Tata Cellular v. Union of India***,¹ wherein the scope of judicial review in tender matters was delineated. The Court held that judicial interference is warranted only when the tendering process suffers from arbitrariness, unreasonableness, mala fides, or favoritism, none of which have been demonstrated by the petitioner in the present case.

5. The petitioner's contention that the condition is tailor-made for certain parties remains unsubstantiated. The Court, in its earlier judgment, had already addressed and negated this allegation, observing that the requirement of a dedicated railway siding is rational and justified in light of the pressing need to ensure uninterrupted coal supply, especially during periods of high power demand.

6. Additionally, this Court must take cognizance of the principle of finality of judicial decisions, which serves as a

1. (1994) 6 SCC 651.

cornerstone of judicial discipline and public policy.

7. The argument regarding the timing of the tender process vis-à-vis the non-issuance of the work order does not constitute a valid ground to question the legality of the condition. The validity of a tender condition must be tested on the facts and circumstances prevailing at the time of its issuance and not based on subsequent developments. The requirement of a dedicated railway siding, as observed earlier, is integral to achieving the tender's objective and cannot be termed arbitrary or irrational merely because the work order has not yet been issued.

8. For the reasons stated above and in light of the judgment dated 11th October 2024 in Writ Petition (L) No. 30266 of 2024, this Court finds no merit in the present petition. The challenge to Clause 1.12(iv) of the tender stands rejected.

9. Accordingly, the writ petition is dismissed. There shall be no order as to costs.

(AMIT BORKAR, J.)

(CHIEF JUSTICE)