

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.1160/2024

National Decoration Works through its Proprietor Arun s/o Natthuji Nagbhidkar and
 others

Vs.

State of Maharashtra, through its Principal Chief Secretary, Mumbai and others

 Office Notes, Office Memoranda of Coram,
 appearances, Court's orders of directions
 and Registrar's orders

Court's or Judge's orders

 Shri A.M. Ghare, Advocate with Shri R.S. Giripunje, Advocate for petitioners
 Shri N.R. Patil, AGP for respondent Nos.1, 2, 4 and 5
 Shri A.M. Kukday, Advocate for respondent No.3
 Shri Sunil Manohar, Senior Advocate a/b Shri A.S. Manohar, Advocate for respondent No.6

CORAM : ANIL S. KILOR AND
SMT. M.S. JAWALKAR, JJ..
DATED : 20/03/2024

This writ petition takes exception to the tender Condition Nos.7 and 8 issued in relation to (i) Mandap, furniture and other ancillary material and (ii) electrical and Sound systems for the election of Lok Sabha, 2024.

2. The conditions are in respect of experience and the financial condition of the bidder.

3. It is submitted that the condition of having experience for two districts is arbitrary and it is tailor made to favour certain contractors.

4. It is submitted that there is no reason for imposing such conditions whereas, the condition could be of having experienced for two constituencies. It was submitted that the conditions are arbitrary and violate Article 14 of the Constitution of India.

5. On the other hand, Shri N.R. Patil, learned AGP for the respondent Nos.1, 2, 4 and 5 states that the work order in this matter has already been issued on 03/01/2024 in favour of the respondent No.6.

6. It is further submitted that the similar challenge was raised in Writ Petition No.6955/2023, which was rejected by this Court vide judgment dated 17/10/2023. He, therefore, submits that this Court may not interfere with the tender process, which is already been finalized and work order has already been issued.

7. Shri Sunil Manohar, learned Senior Counsel appearing for the successful bidder submits that the petitioner has participated in the pre-tender meeting held on 06/10/2023 and the objection to the condition Nos.7 and 8 was raised in the said meeting. But thereafter, no further steps were taken to raise any grievance in this regard.

8. It is further submitted that from 27/03/2024, the election process would begin and, therefore, now it would be practically impossible to issue a fresh tender and complete the process before the said date, even if this petition is allowed. It is, therefore, submitted that since the petitioner approached belatedly, the petition may not be entertained on the ground of delay and laches.

9. In light of rival contention of the parties, we perused the record and the terms and conditions of the tender, under challenge.

10. This Court, while deciding the bunch of petitions,

including Writ Petition No.6955/2023, wherein conditions Nos.7 and 8 were under challenge on the ground as raised in the present petition. The said writ petition was dismissed by this Court vide judgment dated 17/10/2023.

11. Moreover, it is apparent on the face of record that the petitioners first time raised an objection to the condition Nos.7 and 8 on 06/10/2023, in a pre-tender meeting and, thereafter, did not take any steps in the matter to raise challenge to the said conditions, till 08/02/2024, on which date, the present petition came to be filed.

12. In the meantime, the work order was issued in favour of respondent No.6 on 03/01/2024. Thus, there is a delay and laches on the part of the petitioners to raise the challenge to the condition Nos.7 and 8 of the tender in question.

13. Moreover, considering the fact that election process would start from 27/03/2024, it is practically impossible for the respondents to undertake a fresh process of tender, even if, this writ petition is allowed.

14. For the reasons stated herein above, we are of the view that there is no merit in the present writ petition, accordingly, it is dismissed.

JUDGE

JUDGE