



IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO.1491 OF 2024

M/s Aditya Construction Company, Thr. authorized signatory Nilesh Borkar, Patil Marg, Ambazari Hill Top, Nagpur

-vs-

State of Maharashtra, Thr. Secretary, Dept. of Water Conservation, Mantralaya, Mumbai and ors.

Office notes, Office Memoranda of  
Coram, appearances, Court's orders  
or directions and the Registrar's orders.

Court's or Judge's Orders.

Shri Kaustubh Deogade, Advocate for petitioner.  
Shri D. V. Chouhan, Government Pleader for respondent Nos.1 to 4.

**CORAM : NITIN W. SAMBRE AND ABHAY J. MANTRI, JJ.**

**DATE : March 01, 2024**

P. C.

1. We have heard Shri Kaustubh Deogade, learned counsel for the petitioner.

The petitioner has come up with the following prayers :

- “ (a) Recall the Tender Notice No.34/2023-2024 having tender id No.2024\_SSIP\_990562\_22, 2024\_SSIP\_990562\_23, 2024\_SSIP\_990562-24 invited by the respondent No.4, District Water Conservation Officer, Soil and Water Conservation Division, Nagpur (Annexure-1);
- (b) Hold and declare that the technical summery report dated 15.02.2024 uploaded on official portal on 18.02.2024 by the respondent No.4, i.e. District Water Conservation Officer, Soil and Water Conservation Division, Nagpur in tender ID No.2024\_SSIP\_990562\_22, 2024\_SSIP\_990562\_23, 2024\_SSIP\_990562-24 is bad in law (Annexure-6);
- (c) Hold and declare that the technical evaluation report dated 15.01.2024 issued by the respondent No.4, i.e. District Water Conservation Officer, Soil and Water Conservation Division, Nagpur in tender ID No.2024\_SSIP\_990562\_22,

*2024\_SSIP\_990562\_23, 2024\_SSIP\_990562-24 is bad in law (Annexure-6);*

- (d) Direct the respondent No.1 and 2 to initiate appropriate legal action against the respondent No.5 in lieu of the tender condition specifically mentioned on internal page No.42 of the tender document,*
- (e) Direct the respondent No.4, i.e. respondent No.4, i.e. District Water Conservation Officer, Soil and Water Conservation Division, Nagpur to call fresh tender invite by holding the respondent No.5 is not qualified to participate in the tender process in tender ID No.2024\_SSIP\_990562\_22, 2024\_SSIP\_990562\_23, 2024\_SSIP\_990562-24.”*

2. In support of aforesaid prayers, the learned counsel for the petitioner has urged that respondent No.4 has conducted the tender process in malafide manner so as to favour respondent No.5 thereby ignoring the offer made by the petitioner. According to him, the fact that the tender was processed on holiday that too in hasty manner apparently speaks of malafide approach on the part the respondent Authority.

3. As against above, the contention of Shri D. V. Chauhan, learned Government Pleader for respondent Nos.1 to 4 is that the petitioner was not qualified as he has failed to qualify for technical bid. It is claimed that the petitioner has failed to demonstrate that he owns required machinery described in tender document compliance of which was mandatory.

4. It is further brought to our notice that the fact about the petitioner being disqualified was unanimously noted by the tender committee and it was only respondent No.5 who after found to be

qualified was declared successful bidder and was awarded the work order.

5. We have appreciated the submissions.

The fact remains that the petitioner is not in a position to demonstrate that he was technically qualified thereby demonstrating that he owns the required machinery as described in Clause-4 of the tender document (page 32 of the petition).

6. The aforesaid consideration has prompted the respondent-Authority to disqualify the petitioner. The petitioner is unable to demonstrate before us as to on what basis he is claiming to be qualified in the said technical process.

7. That being so, we are of the view that the petitioner was rightly so declared to be not qualified in the tender process. As such we need not go into the merits of the case particularly when respondent No.5 has already been awarded the work order in the matter after he was declared technically qualified.

8. In that view of the matter, the writ petition is dismissed with no order as to costs.

(Abhay J. Mantri, J.)

(Nitin W. Sambre, J.)