



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

Writ Petition No.1325/2024

Mrs. Sheela Sudhakar Gadekar,
aged 37 years, occ-Business,
Proprietor of Gajanan Bhaji Vikreta Va Bhojanalaya,
Pusad, near Shivalaya Mandir, Ashok Park, Pusad,
Dist Yavatmal 445204. Petitioner.

-Versus-

1. The State of Maharashtra
through its Secretary, Department of Tribal Development,
Mantralaya, Mumbai 400032.
2. The Commissioner of Tribal Development
State of Maharashtra, XQVJ + 20J, Old Agra Road,
Matoshree Nagar, Nashik, Dist Nashik 422002.
3. The Additional Commissioner, Tribal Development, Amaravati,
Behind T.B. Hospital, near Police Commissioner Office, Camp,
Amaravati, Dist. Amaravati.
4. The Project Officer, Integrated Tribal Development Project,
Pusad, Sant Sevalal, Chowk, Baliram Chavan Sankul, near
Government Hospital, in front of Padmini Hospital, Pusad,
Dist. Yavatmal 455204.
5. The Project Officer, Integrated Tribal Development Project,
Kinwat, J633+ VX6, Gokunda, Kinwat, Tal. Kinwat,
Dist.Nanded 431811.
6. The Project Officer, Integrated Tribal Development Project,
Pandharkawada, Tal.Pandharkawada, Dist. Yavatmal 445302.
7. Kiran Traders through its Proprietor
Shri Ruturaj Shamram Bhoite, 423, At post
Dhangarwadi (Ko), Tal. Satara, Dist Satara 415004.

8. Gajanan Maharaj Caterers, Pusad,
through its proprietor Santosh Bhaurao Mote,
Rushi Chowk, near Navjeevan Convent, Pusad,
Dist. Yavatmal 445204.
9. Moreshwar Trading Company
through proprietor Mosin Masud Ahmad Kureshi,
Mangal Bajar, Khadrabad, Jalna, Dist. Jalna 431203.
10. Shirish Caterers, Karanja Lad,
through its proprietor, Shirish Dhanyakumar
Nandgaonkar, ward No.31, sheet No.91, Chawre Line,
near Kasturi Haweli, Karanja Lad, Dist. Washim 444105.
11. National Federation of Farmers Procurement,
Processing and Retailing Cooperatives of India Ltd
(NACOF), through its Manager Manojkumar Omprakash Gupta,
511, 5th floor, signature Business Park, Postal Colony Road, near
Chembur Monorail station, Chembur,
Mumbai 400071. Respondents.

Mr. B.G. Kulkarni, Adv. for petitioner.
Mr. A.M. Deshpande, Government Pleader for resp. nos. 1 to 6.

Coram : Nitin W. Sambre & Abhay J. Mantri, JJ.
Dated : 27-02-2024.

JUDGMENT (Per Abhay J. Mantri, J.)

Rule. Rule is made returnable forthwith and heard finally with the consent of learned Counsel for the parties.

2. By this petition, the petitioner is challenging the acceptance of the bid of respondent nos.7 to 11 in pursuance to the tender notice dated 11-12-2023, being arbitrary and illegal.

3. The petitioner is a proprietor of a firm M/s Gajanan Bhaji Vikreta va Bhojnalaya, Pusad, and engaged in the said business.

4. On 11-12-2023, respondent no.3 published a tender for a supply of (a) Vegetables (b) Banana, (c) Eggs, and (d) Mutton/chicken. Accordingly, the estimated total cost of supply of the above items was mentioned in the tender notice. The last date of submission of tender was 01-01-2024.

5. It is contended that the entire tender notice was irrational since the base price was not mentioned in any of the tenders and base prices were never notified by respondent no.3 till 01-01-2024.

6. The petitioner has submitted the tender for all four items and three projects namely; Pusad, Kinwat, and Pandharkawada. The petitioner was qualified in technical eligibility concerning all the tenders.

7. On 06-02-2024, respondent no.3 invited all the bidders for the opening of the price bids. However, the bidders were informed that the bids would be opened on 07-02-2024. Accordingly, on 07-02-2024 price bids were opened. Respondent No. 3 took out one envelope, opened it, and announced the base price of the items. The price of items arrived at 20% less than the base price as under :-

Items	Base Price	20% less than the Base Price
Vegetable	Rs.1380/- per kg. (30 vegetables taken together)	Rs.1104/-
Bananas	Rs.3.40 per piece	Rs.2.72 per piece
Eggs	Rs. 5.80 per piece	Rs.4.64 per piece
Mutton Chicken	Rs.614/- per kg <u>Rs.223/- per kg</u> Rs.837/-per kg	Rs.491.20 per kg. <u>Rs.178.40 per kg</u> Rs.669.60 per kg

8. On 12-02-2024, a negotiation meeting was held by respondent no.3. It is claimed that respondent no.3 and respondent nos.7 to 11 had acted in collusion and the tender process was reduced to a farce. Therefore, the petitioner has submitted her objection with respondent no.3 on 13-02-2024. The petitioner has also sought information from respondent No. 3 under the Right to Information Act. However, till this date, no information has been supplied to her. Respondent no.3 selected respondents nos.7 to 11 for the supply of the vegetable, banana, egg, and mutton/chicken items. Hence, this petition.

9. The learned Counsel for the petitioner strenuously argued that respondent no.3 had not disclosed the 'base price' of any of the items till the issuance of tender notice i.e. 01-01-2024. Therefore, the very foundation of the tender process was kept secret. On that ground alone, the entire tender process is liable to be quashed and set aside. The learned Counsel for the petitioner has made two-fold submissions; firstly, respondent no.3 has not disclosed the base price of any of the items till

01-01-2024, therefore, the entire tender process is vitiated. Secondly, respondent no.3 in collusion with respondent nos. 7 to 11 conducted the tender process, therefore, the action of acceptance of the bid of respondent nos. 7 to 11 is not only arbitrary but in fact *mala fide*. Thus, he has submitted that the entire action is contrary to the principle of fair and transparent actions on the part of respondent no.3, and thus the process is vitiated in its entirety. Hence, he has prayed for setting aside the same.

However, on the query, he fairly admitted that except for the financial bid for vegetables in the other three items, the rates of respondent nos. 7 to 11 were lower than her rates.

10. We have appreciated the argument of the learned Counsel for the petitioners and gone through the documents on record. It is pertinent to note that during the argument the learned Counsel for the petitioner has fairly submitted that in the pre-bid meeting, the petitioner has not raised any objection for non-mentioning of the base price/rate of the items and the rates quoted by the respondent nos. 7 to 11 are higher than the rates quoted by the petitioner except the rates for the item (a) Vegetables.

11. It is not in dispute that in pursuance of the tender notice, respondent no.3 has allotted the work order in favour of respondent nos. 7 to 11.

12. In the aforesaid backdrop, it seems that at the initial stage i.e. in the pre-bid meeting for negotiation the petitioner has not raised any objection to non-mentioning of the base price rate, therefore for the first time in the petition she will not be able to raise the said ground. *Moreover*, admittedly the rates quoted by the petitioners for three items are higher than the rates quoted by respondent nos. 7 to 11, therefore, also the petitioner is not entitled to challenge the said bid as her tender price is much more than the price quoted by respondent nos. 7 to 11. Thus, the learned Counsel for the petitioner has failed to show that the petitioner is entitled to the relief as prayed in the petition. In view of the same, we do not find substance in the ground raised by the petitioner that the base price was not disclosed till the submission of the tender, therefore, the entire process is vitiated.

13. For the aforesaid reasons, we do not find any merit in the petition. Accordingly, the same is dismissed. No costs.

14. Rule stands discharged.

(Abhay J. Mantri, J.)

(Nitin W. Sambre, J)