



IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD

**WRIT PETITION NO. 2552 OF 2025**

M/s. Himalaya Constructions,  
At Ground 1, B N Dhanurkar, Near Kendre Kirana,  
Shivaji Nagar, Parli,  
Tal. Parli – Vajinath, Dist. Beed  
Through its Proprietor,  
Mr. Haribhau Rambhau Aaglawe .. Petitioner

Versus

- 1] The Maharashtra State Power Generation Company,  
MAHAGENCO,  
Parli Thermal Power Station,  
Tal. Parli – Vajinath, Dist. Beed  
Through its Chief Engineer
- 2] M/s. Ishwar Constructions and Services,  
At House No. 413, Poule Niwas,  
Shivaji Nagar, Thermal Road, Parli,  
Tal. Parli – Vajinath, Dist. Beed  
Through its Proprietor  
Mr. Sachin Ishwar Kadge .. Respondents

...  
Advocate for the petitioner : Mr. Ashutosh S. Kulkarni  
...

**CORAM : MANGESH S. PATIL &  
PRAFULLA S. KHUBALKAR, JJ.**

**DATE : 21 FEBRUARY 2025**

**ORDER (MANGESH S. PATIL. J.) :**

Heard.

2. The petitioner is invoking the powers of this Court under Article 226 of the Constitution of India and seeking writ of mandamus with following prayers :-

*A] By issuing appropriate writ, order, direction or any other appropriate order in the nature of writ, the Hon'ble High Court*

*may be pleased to **quash and set aside** decision of Respondent No. 1 in holding Respondent No. 2 as qualified bidder for Technical bid in Tender Rfx No. 3000051373;*

*B] By issuing appropriate writ, order, direction or any other appropriate order in the nature of writ, the Hon'ble High Court may be pleased to direct Respondent No. 1 to reconsider the commercial bids submitted in Tender RFX No. 3000051373.*

3. We have heard learned advocate for the petitioner.

4. He submits that the tender notice was published on 14.09.2024 by respondent no. 1 for providing workshop assistance of 3 250 MW at BM Unit-6 and 7, 250 MW TPS Parli-V. The petitioner as also respondent no.2 participated in the tender process. Respondent no. 2 was not possessing experience, particularly, as indicated in Section III clause 1.3 of the Tender document, still he was allowed to get through and the financial bids have been opened. He would submit that a specific objection was taken by the petitioner on 11.12.2024, still, it was not considered and financial bids were opened. He would thus seek that respondent no. 2 be declared as disqualified, before undertaking the further tender process.

5. We have considered the submissions of the learned advocate and perused the papers.

6. At the outset, it is necessary to note that *ex facie* the prayers being made in clause (A) and (B) (supra) merely seek disqualification of respondent no. 2 without any further claim. He is not seeking any relief for himself.

7. Be that as it may, admittedly, the technical bids were opened on 10.12.2024. The petitioner raised the objection regarding eligibility of respondent no. 2 in writing on 11.12.2024. However, interestingly, he did not pursue his such objection and allowed the financial bids to be opened on 13.02.2025 and has filed the present petition on 20.02.2025. This demonstrates that without any demur, except by lodging a grievance on 11.12.2024, he did not pursue it, rather allowed the tender process to go on and even allowed the financial bids to be opened on 13.02.2025.

8. It is thus quite apparent that the petitioner has been merely taking a chance and the petition is an afterthought. No sooner his objection was not being considered, he could have resorted to some remedy in law. Contrary to such steps expected of a genuine bidder, he allowed the financial bids to be opened and has now raked up the issue regarding eligibility of respondent no.2, in all probability after the latter has turned out to be L-1 bidder. Precisely for this reason, the petitioner is not entitled to invoke the powers of this Court under Article 226 of the Constitution of India.

9. The writ petition is dismissed.

**[ PRAFULLA S. KHUBALKAR ]**  
**JUDGE**

**[ MANGESH S. PATIL ]**  
**JUDGE**

arp/