



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

**BENCH AT AURANGABAD**

**WRIT PETITION NO.2605 OF 2025**

M/s. Omkar Construction,  
Through its Proprietor,  
Shri Dadarao Shahuji Dhage,  
Age-53 years, Occu:Proprietor/Business,  
R/o-Nanded, Taluka and District-Nanded.

**...PETITIONER**

**VERSUS**

- 1) The State of Maharashtra,  
Through its Principal Secretary,  
Public Works Department,  
Mantralaya, Mumbai,
- 2) The Superintending Engineer,  
Public Works Division,  
Nanded, District-Nanded,
- 3) The Executive Engineer,  
Public Works Division,  
Nanded, District-Nanded.

**...RESPONDENTS**

**WITH**

**WRIT PETITION NO.2601 OF 2025**

M/s. Omkar Construction,  
Through its Proprietor,  
Shri Dadarao Shahuji Dhage,  
Age-53 years, Occu:Proprietor/Business,  
R/o-Nanded, Taluka and District-Nanded.

**...PETITIONER**

**VERSUS**

- 1) The State of Maharashtra,  
Through its Principal Secretary,  
Public Works Department,  
Mantralaya, Mumbai,
- 2) The Superintending Engineer,  
Public Works Division,  
Nanded, District-Nanded,
- 3) The Executive Engineer,  
Public Works Division,  
Nanded, District-Nanded.

...RESPONDENTS

**WITH****WRIT PETITION NO.2602 OF 2025**

M/s. Omkar Construction,  
Through its Proprietor,  
Shri Dadarao Shahuji Dhage,  
Age-53 years, Occu:Proprietor/Business,  
R/o-Nanded, Taluka and District-Nanded.

...PETITIONER

**VERSUS**

- 1) The State of Maharashtra,  
Through its Principal Secretary,  
Public Works Department,  
Mantralaya, Mumbai,
- 2) The Superintending Engineer,  
Public Works Division,  
Nanded, District-Nanded,
- 3) The Executive Engineer,  
Public Works Division,  
Nanded, District-Nanded.

...RESPONDENTS

**WITH**

**WRIT PETITION NO.2603 OF 2025**

M/s. Omkar Construction,  
Through its Proprietor,  
Shri Dadarao Shahuji Dhage,  
Age-53 years, Occu:Proprietor/Business,  
R/o-Nanded, Taluka and District-Nanded.

**...PETITIONER****VERSUS**

- 1) The State of Maharashtra,  
Through its Principal Secretary,  
Public Works Department,  
Mantralaya, Mumbai,
- 2) The Superintending Engineer,  
Public Works Division,  
Nanded, District-Nanded,
- 3) The Executive Engineer,  
Public Works Division,  
Nanded, District-Nanded.

**...RESPONDENTS****WITH****WRIT PETITION NO.2604 OF 2025**

M/s. Omkar Construction,  
Through its Proprietor,  
Shri Dadarao Shahuji Dhage,  
Age-53 years, Occu:Proprietor/Business,  
R/o-Nanded, Taluka and District-Nanded.

**...PETITIONER****VERSUS**

- 1) The State of Maharashtra,  
Through its Principal Secretary,  
Public Works Department,  
Mantralaya, Mumbai,

- 2) The Superintending Engineer,  
Public Works Division,  
Nanded, District-Nanded,
- 3) The Executive Engineer,  
Public Works Division,  
Nanded, District-Nanded.

...RESPONDENTS

...  
Mr. Dnyaneshwar S. Bagul Advocate for Petitioner in all  
these Petitions.  
Mr. V.M. Kagne, A.G.P. for Respondent Nos. 1 to 3 in all  
these Petitions.

...  
**CORAM: SMT. VIBHA KANKANWADI AND  
AJIT B. KADETHANKAR, JJ.**

**DATE: 4<sup>th</sup> OCTOBER 2025**

**JUDGMENT [PER SMT. VIBHA KANKANWADI, J.] :**

1. Rule. Rule made returnable forthwith. Heard learned counsel for the appearing parties finally, by consent.
2. All these Petitions were heard on 4<sup>th</sup> October 2025 and the operative order was pronounced on the same day and the reasons are given on 6<sup>th</sup> October 2025.
3. The petitioner in all these matters is same, who is challenging the various tender processes wherein it had annexed

same documents and its bid has been rejected on the same grounds in all these matters and therefore, we would like to dispose of all the matters together in this common Judgment to avoid the repetition and for the sake of brevity.

4. The petitioner is a reputed contractor from Nanded and had undertaken the contract of various works through tenders floated by respondent Nos.2 and 3 and completed the same. Documents to the extent of the past experience of the petitioner and its successful completion of the work have been placed on record. It is stated that in respect of all those completed works, there was absolutely no complaint. The respondent authorities published tender on 14<sup>th</sup> August 2023 which was relating to fifteen different works. But the petitioner had participated only in two tender works. The process in respect of that tender went on 26<sup>th</sup> August 2023 to 10<sup>th</sup> September 2023. On 25<sup>th</sup> October 2023 the technical and financial bid was opened and the petitioner was found eligible. The value of the tender work was more than Rs.12 to 14 Crores. The petitioner contends that the Superintending Engineer demanded an extraneous consideration for allotting the tender and therefore, the petitioner had lodged First Information Report (fort short "the FIR) under Section 7 and 12 of the Prevention of Corruption Act against the

Superintending Engineer, on 2<sup>nd</sup> November 2023, vide Crime No.403 of 2023. The said Superintending Engineer was arrested on 27<sup>th</sup> December 2023 and was released on bail by this Court later on. He was placed under suspension and the departmental inquiry has been initiated against him. Though the petitioner's bid was accepted by the Chief Engineer, the work order was not issued and therefore the petitioner had approached this Court by filing Writ Petition No.13841 of 2024. In the meantime the respondents had published another tender on 13<sup>th</sup> October 2023 and the procedure was to be completed between 13<sup>th</sup> October 2023 to 28<sup>th</sup> October 2023. The petitioner had submitted his bid on 28<sup>th</sup> October 2023. Again another tender was published on 16<sup>th</sup> October 2023 i.e. third tender, in which also the petitioner had participated. The respondents had failed to open the said tenders, therefore, again the petitioner had approached this Court by filing Writ Petition No.3098 of 2024. The said Writ Petition came to be disposed of on 26<sup>th</sup> March 2024 with directions to respondents to open the tender of the petitioner. In the meantime the Chief Engineer had submitted a proposal to the Additional Chief Secretary, requesting the blacklisting of the petitioner for filing fabricated documents in tender notice / work, which was allotted to the petitioner in the year 2022-23, by

letter dated 23<sup>rd</sup> February 2024. Even the respondents had stopped the payment of running bills to the petitioner by 26<sup>th</sup> February 2024 and therefore, the petitioner approached this Court once again by filing Writ Petition No.2432 of 2024. In the meantime the respondents had opened the tenders and rejected the technical bid of the petitioner on 3<sup>rd</sup> April 2024, on the ground that the proposal of the petitioner for blacklisting is submitted to the State Government. Once again the petitioner approached this Court by filing Writ Petition Nos. 3848 of 2024, 3905 of 2024 and 3907 of 2024. The petitioner contends that it was blacklisted by the respondents without issuing any show-cause notice, by order dated 21<sup>st</sup> June 2024. The said order of blacklisting was challenged by filing Civil Application No.6756 of 2024 in Writ Petition No.2432 of 2024. This Court had stayed the order of blacklisting the petitioner, by order dated 10<sup>th</sup> July 2024. In the said order, this Court had directed the respondents to proceed with and conclude the tender process by allowing the petitioner to participate and not to reject his bid only on the ground that the petitioner has been blacklisted. When there was no sign of further progress in the matter, the petitioner filed Contempt Petition No.1 of 2025, in which this Court had issued notices. The fourth tender came to be published by the

respondents on 12<sup>th</sup> February 2024, which was in respect of twenty three different works. The petitioner participated in four tender works. The bids for the other works were opened and the work orders have also been given except four works in which the petitioner participated. When again the respondents were not taking any steps, the petitioner approached this Court by filing Writ Petition No.4206 of 2024. During the pendency of that Writ Petition, again E-tender i.e. fifth tender was published on 1<sup>st</sup> August 2024 and then the petitioner had participated in all nine works from Serial Nos. 3 to 11. The pre-bid meeting was held. Before the last date of submission of bid, every document was uploaded by the petitioner. The bid was to be opened on 12<sup>th</sup> August 2024. Since the respondents failed to open the said tenders, the petitioner once again approached this Court by filing Writ Petition Nos. 9284 of 2024 and 9285 of 2024. On 20<sup>th</sup> August 2024, the respondents have registered the FIR bearing Crime No.338 of 2024, against the petitioner with Shivaji Nagar Police Station, Nanded alleging submission of forged documents in the tender process which was completed in the year 2023. This Court while disposing of Writ Petition Nos. 4206 of 2024, 9284 of 2024 and 9285 of 2024, directed the authorities to open the technical bid subject to the terms and condition of the tender

document. In the said order, this Court had expressed displeasure on the action of the authorities. It was observed that the action of the respondent authorities is on the basis of bias against the petitioner.

5. The petitioner contends that respondent authorities are deliberately adopting such tactics in order to see that the petitioner does not get any scope in the process and does not get any tender. The respondent authorities had decided to open the tender and then had taken care that it should not be allotted to the petitioner. This is in view of the annoyance of the respondent authorities against the petitioner. The authorities had issued notice to the petitioner on 14<sup>th</sup> February 2025 and directed the petitioner to submit valid SCADA certificate in respect of Fully Automatic Microprocessor based PLC with SCADA enabled with reversible Drum Type Mixer / Concrete Batch Mix Plant (Pan Mixer) + Transit Mixer, issued by Automation Manifold Services Private Limited, Nagpur or Vasundhara IT Private Limited, Pune. The petitioner was directed to submit those documents on or before 1.30 p.m. of 17<sup>th</sup> February 2025. There was Saturday (non-working Saturday for Government) on 15<sup>th</sup> February 2025 and on 16<sup>th</sup> February 2025 it was Sunday. The

petitioner was issued with notice just to show that valid opportunity of hearing was given to him. After receiving the requisite documents, the petitioner submitted those documents before the respondent authorities. One copy was given physically and another was sent through E-mail. In spite of this the bid of the petitioner has been rejected on following three grounds:-

| <u>Sr. No.</u> | <u>Ground</u>                                                                                                                                                                                                     |
|----------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| (I)            | The documents attached with the tender document in respect of transit mixer belongs to Drushti Enterprises and not of the petitioner.                                                                             |
| (II)           | The authorities have registered First Information Report against the petitioner under Section 420, 464, 467, 468, 471 of the Indian Penal Code vide FIR No.338 of 2024 with Shivaji Nagar Police Station, Nanded. |
| (III)          | The hot mix plant of the petitioner is sealed by the Forest Department and the same is intimated to the Public Works Department on 14.02.2025.                                                                    |

6. The petitioner has therefore, approached this Court challenging rejection of all the bids on the same reason.

7. The learned AGP relies on the affidavit filed by Mr. Ramkrushna Limbraj Galdhar, the Executive Engineer, Public Works Division, Nanded, Taluka and District-Nanded, which came to be filed in Writ Petition No.2605 of 2025. It is stated that the

petitioner had attached documents only in respect of its plant or location of machinery at Pimpalkautha, Taluka-Mudkhed, District-Nanded. The SCADA certificate attached by the petitioner issued by the Assistant Chief Engineer, Mechanical, had the validity from 23<sup>rd</sup> May 2023 to 22<sup>nd</sup> May 2024. The tender in question was to be filled in during the period from 1<sup>st</sup> August 2024 to 9<sup>th</sup> August 2024 and therefore, a fresh certificate covering the period was required. However, prior to that the said ready mix concrete plant was already sealed by the Forest authorities and was not operational. This fact was suppressed by the petitioner. In response to the show-cause notice dated 14<sup>th</sup> February 2025, the petitioner then submitted the SCADA certificate in respect of ready mix concrete plant located at Gut No.107/2, Hadoli, at Khedkarwadi, Post-Malakoli, Taluka-Loha, District-Nanded, without informing that SCADA certificate for ready mix plant was being submitted to a different location as compared to the ready mix plant offered along with tender documents and without explaining as to how, when the ready mix plant was already sealed / seized and was not operational, the same was offered. Therefore, the conduct of the petitioner is in breach of integrity pact.

8. Heard learned Advocate Mr. Bagul for the petitioner and learned AGP Mr. Kagne for the respondents.

9. The learned Advocate for the petitioner has taken us through the observations by this Court in the earlier Petitions and submitted that this Court had already opined that the respondents' attitude towards the petitioner is bias and almost in the revengeful manner the FIR has been lodged against the petitioner. In the tender document, Condition No.12 (d) made it compulsory for each contractor to demonstrate the availability of the following key and critical equipment should be owned or on hire by the contractor and be actually in his possession and available exclusively for the work. In all nine items were covered and for the purpose of present matters, first machinery is important i.e. "Fully automatic micro processor based PLC with SCADA enabled with reversible drum type mixer/concrete batch mix plant (pan mixer) + Transit Mixer." The said nine items were as under:-

|    |                                                                                                                                                   |                  |
|----|---------------------------------------------------------------------------------------------------------------------------------------------------|------------------|
| 1. | Fully automatic micro processor based PLC with SCADA enabled with reversible drum type mixer/concrete batch mix plant (pan mixer) + Transit Mixer | 1 (One) Owned    |
| 2. | Vibratory roller                                                                                                                                  | 1 (One) Owned    |
| 3. | Truck/Tipper                                                                                                                                      | 02 (Two) (Owned) |

|    |                 |                       |
|----|-----------------|-----------------------|
| 4. | Soil Compactor  | 02 (Two) (Owned)      |
| 5. | Excavator       | One No. (Owned/Hired) |
| 6. | Motor Grader    | One No. (Owned/Hired) |
| 7. | Plate Vibrator  | 1 (One)( Owned)       |
| 8. | Concrete Paver  | 1 (One) (Owned)       |
| 9. | Needle Vibrator | 02 (Two) (Owned)      |

10. It is submitted by the learned Advocate for the petitioner that such plant/machinery, referred at Sr. No.1 above, which was required was only one in number. In fact as regards the transit mixures, along with the tender document the petitioner had provided the record of the vehicles maintained by R.T.O. Office and all of them were standing in the name of the petitioner proprietor. There is no objection for the other documents. But in respect of the SCADA certificate and the plant, the E-mail was given by respondent authorities on 14<sup>th</sup> February 2025 thereby granting time only till 1.30 p.m. of 17<sup>th</sup> February 2025, to explain the short comings. In its Government Resolution, the Government of Maharashtra dated 7<sup>th</sup> March 2019----- had taken some decisions and clarified the position in respect of E-tenders with Public Works Department. Clause 2 states as follows:-

“ २. ब—याचदा लगतच्या पूर्व कालावधीत पात्र ठरलेला कंत्राटदार किंवा एखादी निविदा उघडण्यावेळी पात्र असलेल्या कंत्राटदार त्याच

निविदा सूचनेतील उघडण्यात आलेल्या/येणा—या दुस—या निविदावेळी अपात्र ठरविण्यात येतो, अशा कंत्राटदारांची निविदा किरकोळ कारणास्तव (जसे की, **PTC, Machinery**, आयकर कागदपत्रे, **Similar work condition** इ.) अपात्र करू नये. अश्या कंत्राटदारांनी त्यांची पूर्वीच्या **Online** निविदांची कागदपत्रे उपलब्ध केल्यास ती पडताळून पात्र ठरविण्याबाबत कळवावे व आर्थिक लिफाफा क्र.२ उघडावा. याबाबत अशा आशयाचे आदेश मा. उच्च न्यायालयाने सुध्दा निर्गमित केले आहेत. "

11. It is submitted by the learned Advocate for the petitioner that thereby it was stated that an opportunity should be given to the contractor to explain the facts. Further by way of another Government Resolution dated 17<sup>th</sup> September 2019, it has been stated that duration of 8 to 15 days should be given to the contractor to explain. However, in this case only 3 days were given and then when along with the communication dated 17<sup>th</sup> February 2025, the petitioner had annexed the certificate by Vasundhara IT Private Limited, that the petitioner's plant located at Gut No.107/2, Hadoli, at Khedkarwadi, Post-Malakoli, Taluka-Loha, District-Nanded, was successfully installed SCADA system and necessary training regarding operation of SCADA system and troubleshooting has been given to the plant and site operators. That document was not considered at all by the respondents and one of the ground on which the tender has

been rejected is the same. The outcome of the said FIR by the respondents against the petitioner, was already before the respondent authorities, as this Court in the earlier Writ Petition had made observations regarding the same. When R.T.O. documents in respect of vehicle MH-26-BE-8134 were produced, the respondent authorities ought not to have gone to some App and check the ownership. All these activities those were carried out by the respondents were with mala fide intention as the petitioner had lodged the FIR against the Superintending Engineer in which he was arrested and was required to be suspended.

12. Learned Advocate for the petitioner, in support of his submissions, relies upon the decisions in the case of, *State of Madhya Pradesh and another vs. Uttar Pradesh State Bridge Corporation Limited and another*, (2022) 16 SCC 633, *Michigan Rubber (India) Limited vs. State of Karnataka and others*, (2012) 8 SCC 216, *State of Punjab and others vs. Mehar Din*, (2022) 5 SCC 648, *Maha Mineral Mining & Benefication Pvt. Ltd. vs. Madhya Pradesh Power Generating Co. Ltd. and another*, 2025 SCC OnLine SC 1942, and submits that though this Court has powers to take judicial review of the tender, however, the

petitioner has demonstrated that the administrative decision to reject the bid of the petitioner was tainted with mala fides and it was intended to favour someone. The action was arbitrary and without following the principles of natural justice and therefore, the interference is required. This Court had passed the order of not to issue work order when the matter was taken up on the first date and the said interim relief is in operation till today.

13. Per contra, the learned AGP vehemently submitted that the rejection of the bids of the petitioner is not on the point that it was blacklisted or it had lodged the report against the Superintending Engineer, under the Prevention of Corruption Act. In clear terms the respondent authorities have stated that the tenders of the petitioner came to be rejected on three grounds, as aforesaid. Even if we say that ground Nos. 1 and 2 may not be considered, then yet as regards third ground or situation, the fact remains that along with the tender documents when the list of the documents has been uploaded, they were all in respect of the plant of the petitioner at Pimpalkautha, Taluka-Mudkhed, District-Nanded. The Forest Department had sealed the said plant on 23<sup>rd</sup> July 2024. Documents annexed along with the affidavit-in-reply

would show that the said plant was seized by the Forest Department. The petitioner had the knowledge that it was not in possession of the said plant on the date of the tender, but it had not uploaded the plant documents issued by Vasundhara IT Private Limited or had not taken the SCADA certificate from Assistant Chief Engineer, Mechanical. The certificate which petitioner has annexed, copy of which is at page No.264, is in respect of plant at Pimpalkautha, Taluka-Mudkhed, District-Nanded and the said certificate clearly states that the validity of the certificate is for one year only i.e. from 23<sup>rd</sup> May 2023 to 22<sup>nd</sup> May 2024. The tenders in the present matters have been issued after the validity period of the said certificate. Page No.263 is the statement-II dealing with the details of the plant and machinery immediately available with the tenderer for this work. The entire machinery and plant which was at Pimpalkautha was shown by the petitioner and therefore, when this communication was received by the Assistant Engineer, Class-I, Public Works Division, Mudkhed, the respondents have given the E-mail on 14<sup>th</sup> February 2025. In reply the petitioner gave the certificate issued by Vasundhara IT Private Limited, Pune, which was in respect of another plant at Hadoli, at Khedkarwadi, Post-Malakoli, Taluka-Loha, District-Nanded, which was without the

certificate. The petitioner had the knowledge that the plant at Pimpalkautha was not in its immediate possession, still by suppressing the facts that it has been seized by the Forest Department, the petitioner has uploaded those documents. Under such circumstance, for the suppression of those documents and for ground No.3 especially, the bid of the petitioner has been rightly rejected.

14. Before proceeding to the analysis of the facts, we would like to consider the legal position. In **M/s. N.G. Projects Limited vs. Vinod Kumar Jain and others**, [2022 LiveLaw (SC) 302], in which the earlier decisions have been taken note of and it has been observed that :-

"23. In view of the above judgments of this Court, the Writ Court should refrain itself from imposing its decision over the decision of the employer as to whether or not to accept the bid of a tenderer. The court does not have the expertise to examine the terms and conditions of the present-day economic activities of the State and this limitation should be kept in view. Courts should be even more reluctant in interfering with contracts involving technical issues as there is a requirement of the necessary expertise to adjudicate upon such issues. The approach of the Court should be not to find fault with magnifying glass in its hands, rather the Court should examine as to whether the decision-making process is after complying with the procedure contemplated by the tender conditions. If the

Court finds that there is total arbitrariness or that the tender has been granted in a *mala fide* manner, still the Court should refrain from interfering in the grant of tender but instead relegate the parties to seek damages for the wrongful exclusion rather than to injunct the execution of the contract. The injunction or interference in the tender leads to additional costs on the state and is also against public interest. Therefore, the State and its citizens suffer twice, firstly by paying escalation costs and secondly, by being deprived of the infrastructure for which they present-day Governments are expected to work."

**15. In Jagdish Mandal Vs. State of Orissa, (2007) 14 SCC 517,** [which has also been relied upon in **State of Madhya Pradesh and another vs. Uttar Pradesh State Bridge Corporation Limited and another, (supra)**], Hon'ble Supreme Court has held that :-

"22. Judicial review of administrative action is intended to prevent arbitrariness, irrationality; unreasonableness, bias and mala fides. Its purpose is to check whether choice or decision is made "lawfully" and not to check whether choice or decision is "sound". When the power of judicial review is invoked in matters relating to tenders or award of contracts, certain special features should be borne in mind. A contract is a commercial transaction. Evaluating tenders and awarding contracts are essentially commercial functions. Principles of equity and natural justice stay at a distance. If the decision relating to award of contract is bona fide and is in public interest, courts will not, in exercise of power of judicial review, interfere even if a procedural aberration or error in assessment or prejudice to a tenderer, is made out. The power of judicial review will not be permitted to be invoked to protect private interest at the cost of public

interest, or to decide contractual disputes. The tenderer or contractor with a grievance can always seek damages in a civil Court. Attempts by unsuccessful tenderers with imaginary grievances, wounded pride and business rivalry, to make mountains out of molehills of some technical/procedural violation or some prejudice to self, and persuade courts to interfere by exercising power of judicial review, should be resisted. Such interferences, either interim or final, may hold up public works for years, or delay relief and succour to thousands and millions and may increase the project cost manifold. Therefore, a Court before interfering in tender or contractual matters in exercise of power of judicial review, should pose to itself the following questions :

(i) Whether the process adopted or decision made by the authority is mala fide or intended to favour someone;

or

Whether the process adopted or decision made is so arbitrary and irrational that the court can say: "the decision is such that no responsible authority acting reasonably and in accordance with relevant law could have reached";

(ii) Whether public interest is affected.

If the answers are in the negative, there should be no interference under Article 226. Cases involving blacklisting or imposition of penal consequences on a tenderer/contractor or distribution of State largesse (allotment of sites/shops, grant of licences, dealerships and franchises) stand on a different footing as they may require a higher degree of fairness in action."

## 16. In **State of Madhya Pradesh and another vs. Uttar**

**Pradesh State Bridge Corporation Limited and another, (supra),** a Three-Judge Bench decision of the Hon'ble Supreme Court in **Tata Cellular vs. Union of India, (1994) 6 CC 651**, was considered, wherein the parameters of judicial review were laid down in Paragraph No.94, as under:-

"94 . The principles deducible from the above are:

(1) The modern trend points to judicial restraint in administrative action.

(2) The court does not sit as a court of appeal but merely reviews the manner in which the decision was made.

(3) The court does not have the expertise to correct the administrative decision. If a review of the administrative decision is permitted it will be substituting its own decision, without the necessary expertise which itself may be fallible.

(4) The terms of the invitation to tender cannot be open to judicial scrutiny because the invitation to tender is in the realm of contract. Normally speaking, the decision to accept the tender or award the contract is reached by process of negotiations through several tiers. More often than not, such decisions are made qualitatively by experts.

(5) The Government must have freedom of contract. In other words, a fair play in the joints is a necessary concomitant for an administrative body functioning in an administrative sphere or quasi-administrative sphere. However, the decision must not only be tested by the application of Wednesbury principle of reasonableness (including its other facts pointed out above)

but must be free from arbitrariness not affected by bias or actuated by mala fides.

(6) Quashing decisions may impose heavy administrative burden on the administration and lead to increased and unbudgeted expenditures.”

16. The decision in **Tata Cellular vs. Union of India**, (1994) 6 CC 651, (supra) has also been relied in the decision in **Michigan Rubber (India) Limited vs. State of Karnataka and others**, (supra). All these cases have also been noted in **State of Punjab and others vs. Mehar Din**, (supra).

17. Thus, taking into consideration the well settled law on this point, we have limited scope. We have to see whether the petitioner has demonstrated that the petitioner was eligible, as it had complied with all the tender requirements, otherwise the course is open to the petitioner as aforesaid in **M/s. N.G. Projects Limited (Supra)** and **Jagdish Mandal**, (supra).

18. We would like to deal with the facts simply without considering the fact that there was an order of blacklisting of the petitioner because the rejection of the bids of the petitioner is

not on that point. The first ground on which the rejection of technical bids is the documents attached with the tender papers in respect of transit mixer belongs to Drushti Enterprises and not of the petitioner. Here it is to be noted that Condition No.1 is for two machinery i.e. SCADA plant + transit mixer and it appears that along with the tender, the documents in respect of about five transit mixers have been given. Therefore, rejection only in respect of one vehicle, which was then found to be belonging to or in the name of Drushti Enterprises, on some App, was not justified. When the documents of R.T.O. have been filed, then if at all there was to be an inquiry, it should have been with the R.T.O. office and not on some private App.

19. The second ground on which the bid has been rejected is that the authorities have registered First Information Report against the petitioner vide Crime No.338 of 2024 with Shivjinagar Police Station, Nanded. Now, unless it is demonstrated that some documents have been used by the petitioner which are at present, alleged to be fraudulent, in these tenders also, the consideration of FIR was not justified. Even in the affidavit-in-reply, there is no specific mention that which same document or which same forged document was used by

the petitioner in these tenders, involved in all these petitions. Therefore, the rejection of the bid on this point was not justified.

20. The third ground is regarding seizure or seal to the plant at Pimpalkautha, Taluka-Mudkhed, District-Nanded by the Forest Department. In fact there is no dispute on this point by the petitioner. The petitioner has not stated that the said plant was not seized or sealed on 23<sup>rd</sup> July 2024, by the Forest Department. Upon query, the learned Advocate for the petitioner submitted that the petitioner has filed application before the appropriate authority for de-sealing or return of the property / plant and that application is still pending. As per the tender condition No.12(d), such fully automatic micro processor based PLC with SCADA enabled with reversible drum type mixer/concrete batch mix plant (pan mixer) + transit mixer plant should be of the ownership of the contractor and it should not be on hire. It is also mentioned in the said condition that such critical equipment should be in actual possession of the contractor and available exclusively for the work at the time of submission of tender. Certainly, at the time of submission of the tender that was floated, bearing No.10/2024-2025, on 1<sup>st</sup> August 2024, the said plant was not within the possession of the

petitioner, so far as Writ Petition No.2605 of 2024 is concerned. In all other Petitions also the tenders were opened, may be after the orders were passed by this Court, on 18<sup>th</sup> February 2025. But prior to that certainly an opportunity was given by communication dated 14<sup>th</sup> February 2025, to the petitioner to submit his remarks on the short comings. In the said communication by E-mail, it was specifically mentioned that the plant at Pimpalkautha, Taluka-Mudkhed was not found and it was also stated that in view of not finding the said plant and the fact that as valid SCADA certificate was not found, the petitioner will not be eligible for further tendering. Now, it has been stated that on 17<sup>th</sup> February 2025, physical copy was tendered at the office of the Executive Engineer, Public Works Division, Nanded, to which the documents regarding Drum Mix Plant, RMC Plant, Sensor Paver Finisher's SCADA certificate and bill, were annexed and those documents were also sent through E-mail. Of course, the E-mail appears to be given at 1.44 p.m. of 17<sup>th</sup> February 2025 i.e. beyond the time limit given in letter dated 14<sup>th</sup> February 2025. Yet, the fact remains is that when the list was given, it contained the documents regarding plant located at Pimpalkautha and now a different location plant was given without assigning any reason and thereby also the suppression

of the fact of sealing of the plant by the Forest Department. Such fact is in existence or the fact for which the petitioner has been disqualified, is a true fact and therefore, it cannot be stated that the administrative decision taken by the respondents is with mala fide intention. The case of the petitioner in respect of rejection of all the tenders, does not fall within the permissible parameters of the judicial review and therefore, we do not find that disqualification of the petitioner is unjustified.

21. There appears to be some background regarding the FIR lodged by the petitioner against the Superintending Engineer, under the Prevention of Corruption Act and then petitioner was required to approach this Court time and again when the tenders were not opened on the fixed date. But taking into consideration the reasons those were assigned for its disqualification in these Petitions, one ground is based on true facts and therefore, these Petitions are not fit Petitions where we can exercise our powers under Article 226 and 227 of the Constitution of India for interference in the administrative decision.

22. For the reasons afore-stated, all the Writ Petitions stand dismissed.

23. Rule stands discharged.

24. After the pronouncement of the operative order, learned Advocate for the petitioner seeks continuation of the interim order for a period of four weeks. The interim order was in the nature of "No work order shall be issued till the next date."

25. The matters are in respect of tenders relating to different works in respect of construction of road. The tender was floated on 12<sup>th</sup> August 2023 and since the bid was not opened, the petitioner had approached this Court and, thereupon, on 26<sup>th</sup> March 2024, statement was made and the bid was opened. Thereafter the rejection of the bid is on 18<sup>th</sup> February 2025. Since the public works are getting hampered, we refuse the prayer for continuation of the ad-interim protection.

**[AJIT B. KADETHANKAR]**  
**JUDGE**

**[SMT. VIBHA KANKANWADI]**  
**JUDGE**