

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE CIVIL JURISDICTION

WRIT PETITION NO.2725 OF 2025

VDK Facility Services Pvt. Ltd.
through its authorized
representative -
Mr. Deepak Anant Dhanavate

...Petitioner

V/s.

1. The State of Maharashtra
through the Chief Secretary,
Mantralaya, Mumbai.
2. Chief Officer
Aatpadi Nagar Panchayat,
Aatpadi, Taluka-Aatpadi,
District-Sangli.
3. Bhagyadips Waste Management
Private Limited, Pune.

...Respondent

Mr. Sandeep S. Ladda with Mr. Sarvesh Dixit & Mr. Adnan Ansari for the Petitioner.

Smt. Neha Bhide, Govt. Pleader with Mr. O.A. Chandurkar, Addl. GP & Smt. G.R. Raghuwanshi, AGP for Respondent No.1-State.

Mr. Vijay Patil, Senior Advocate with Mr. Rahul V. Shinde for Respondent No.2.

Mr. Kalpesh Patil for Respondent No.3.

**CORAM: ALOK ARADHE, CJ. &
SANDEEP V. MARNE, J.**

Dated: 26 JUNE 2025.

Oral Order : (Sandeep V. Marne, J.)

1. Petitioner has filed the present Petition challenging rejection of its technical bid submitted in pursuance of tender notice dated 20 January 2025. It has also challenged the work order issued in favour of Respondent No.3.

2. Petitioner is engaged in executing government contracts relating to cleanliness, sanitation and other related works. Respondent No.2-Aatpadi Nagar Panchayat (**Nagar Panchayat**) issued Tender Notice No.296/2023-2024 dated 7 July 2023. Petitioner participated in the tender process and was a successful bidder. He was awarded the contract vide work order dated 23 August 2023. The said work order was for the period upto 31 August 2024. The Petitioner was granted extension till further orders. In the meantime, Tender Notice No.17/2024-25 dated 20 January 2025 was issued in respect of work of daily collection and transportation of municipal solid waste, sweeping of roads, transportation, toilet cleaning, dry and wet waste processing within the Nagar Panchayat. Petitioner made application dated 28 January 2025 seeking issuance of 'No Dues' certificate in respect of past work as well as a certificate

acknowledging submission of 'Action Plan' for the purpose of submitting its bid in the current tender process.

3. It is the case of the Petitioner that the Nagar Panchayat failed to issue the requested certificates. Petitioner submitted its bid. However, in the tender evaluation report dated 5 February 2025 its bid was shown to have been rejected on the ground of non-submission of necessary documents alongwith the bid. On 18 February 2025, work order was issued in favour of Respondent No.3. On the same day, Petitioner was called upon to discontinue the work in respect of previous tender process. The present Petition is filed challenging the rejection of technical bid as well as work order issued in favour of Respondent No.3.

4. Mr. Ladda, the learned counsel appearing for the Petitioner would submit that the Petitioner's bid has been arbitrarily rejected by the tendering authority by adopting hyper-technical approach and without assigning any specific reason. That Petitioner has not been communicated the exact reason for rejection of its bid. That the tender evaluation sheet indicates that the Petitioner's bid is rejected on the ground of non-submission of affidavit of absence of blacklisting and non-submission of 'No Dues' certificate and certificate of 'Action Plan'. That though Petitioner was blacklisted, the blacklisting has been stayed by this Court, Bench at Aurangabad by order dated 24 October 2024. That there was no provision in the format for disclosure of information relating to blacklisting and stay by this

Court. That Respondent No.2-Nagar Panchayat is responsible for non-issuance of 'No Dues' certificate and certificate of 'Action Plan'. That despite making the application dated 28 January 2025 for issuance of the said two documents, the Respondent No.2 did not issue the same and is now taking benefit of its own wrong. He would accordingly pray for setting aside the impugned decision of award of contract to Respondent No.3.

5. Mr. Vijay Patil, the learned senior advocate appearing for Respondent No.2-Nagar Panchayat would oppose the Petition submitting that even though Petitioner's blacklisting may have been stayed, still it ought to have disclosed the information relating to blacklisting. That it made false declaration of absence of blacklisting in the affidavit. That tender condition required submission of 'No Dues' certificate as well as certificate of site inspection for the purpose of preparation of Action Plan. That therefore, Petitioner's bid has rightly been rejected. He would pray for dismissal of the Petition.

6. Mr. Kalpesh Patil, the learned counsel appearing for Respondent No.3 would submit that work order has already been issued in favour of Respondent No.3 and that the agreement has been executed by the Nagar Panchayat. He would submit that the Nagar Panchayat has accordingly started execution of work order and it is too late in a day to examine correctness of tender

process at such distant date. He would also pray for dismissal of the Petition.

7. We have also heard Smt. Bhide, the learned Government Pleader for Respondent No.1-State.

8. We have considered the submissions canvassed by the learned counsel appearing for the parties.

9. Perusal of the terms and conditions of the Tender Notice would indicate that the bidders were expected to submit following three documents alongwith their bids:-

१३) परीशिष्ट २ कोणत्याही शासकीय/निमशासकिय संस्थेने terminate केले नसल्याचे तसेच काळयायादीत टाकले नसलेबाबतचे रु.१००/- stamp paper वरील नोटराईजड प्रतिज्ञापत्र. तसेच परीशिष्ट क ५०० रु च्या स्टंप पेपरवर नोटराईज करून देणे आवश्यक आहे.

xxx

२१) नगरपंचायत हद्दीतील सर्व कामाच्या अनुषंगाने समक्ष पाहणी करून कृती आराखडा तयार करून मा. मुख्याधिकारीसो याचे स्थळ पाहणी प्रमाणपत्र तांत्रिक बोलीच्या लिफाफ्यात सादर करणे आवश्यक आहे.

xxx

२८) न.प. आटपाडीकडील कर थकबाकी नसलेबाबतचे प्रमाणपत्र.

10. So far as the condition of submission of affidavit of absence of termination of contract or blacklisting by any government /non-government agencies is concerned, it appears that the Petitioner submitted affidavit making a declaration that its contract was never terminated by any government / non-

government agencies. However, it later transpired that Paranda Nagar Parishad, District Dharashiv, had disqualified the Petitioner. However, by order dated 24 October 2024 passed in Writ Petition No.12002 of 2024 this Court stayed the order of blacklisting dated 9 September 2024. The Petitioner however did not disclose the entire information of blacklisting by Paranda Nagar Parishad and grant of stay by this Court. The contention of Mr. Ladda that there was no provision in the format to make such disclosure cannot be accepted in view of the fact that Petitioner has added following words in the affidavit in handwriting 'तसेच कोणत्याही शासकीय /निमशासकीय संस्थेने terminate केले नाही.' If Petitioner could add the sentence relating to absence of termination of contract, it could have easily made a declaration of disqualification order passed by Paranda Nagar Parishad and stay order passed by this Court.

11. Be that as it may. Even if the first ground of non-disclosure of aspect of blacklisting is to be momentarily ignored, in our view there is no compliance by the Petitioner of document at Serial No.21 of the Tender Notice, under which Petitioner was expected to inspect all the sites in the Nagar Panchayat, prepare Action Plan and submit the same together with certificate of site inspection issued by the Chief Officer. According to Petitioner he submitted letter dated 28 January 2025 attaching the Action Plan and requested for certificate of site inspection. Respondent No.2-Nagar Panchayat has however stated in affidavit that so called site inspection was not conducted by the Petitioner in

presence of any officer of Nagar Parishad. Tender condition required that Action Plan must accompany certificate of site inspection issued by Chief Inspector. If Petitioner did not take officer of Nagar Panchayat alongwith it at the time of alleged site inspection, it was impossible for Chief Officer to certify such site inspection. Petitioner could not have unilaterally visited the sites and prepared the Action Plan. In our view therefore, the Nagar Panchayat cannot be blamed for non-issuance of certificate for site visit. Since Petitioner has failed to submit essential documents alongwith its bid, we do not find any error on the part of Respondent No.2-Nagar Panchayat in rejecting the technical bid of the Petitioner. The work order has already been issued in favour of Respondent No.3 on 18 February 2025, who has commenced execution of the work. We therefore do not find any valid reason to interfere in the impugned decision of Respondent No.2. Petition is devoid of merits. It is accordingly **dismissed**.

[SANDEEP V. MARNE, J.]

[CHIEF JUSTICE]