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

**WRIT PETITION NO. 5488 OF 2023
WITH
INTERIM APPLICATION NO. 3747 OF 2023**

M/s. Amruta Constructions

.. Petitioner

Versus

The State of Maharashtra & Ors.

.. Respondents

Mr. Naveen Chomal for petitioner/applicant.

Mr. O. A. Chandurkar, Addl. Govt. Pleader with Mr. M. M. Pabale, AGP for respondent no.1.

**CORAM: ALOK ARADHE, CJ. &
BHARATI DANGRE, J.**

DATE: 7th FEBRUARY, 2025

P.C.:

1. With the consent of the learned counsel for the parties, petition is heard finally.
2. In this writ petition, the petitioner, *inter alia*, seeks a writ of mandamus to respondent nos.1 to 3 to forthwith issue work order to the petitioner in respect of E-Tender, dated 16th February, 2022, for construction of Anti Sea Erosion Bund at Anjarla, Taluka – Dapoli, District – Ratnagiri.
3. Facts giving rise to filing of this petition in brief are that E-Tender was issued for the construction of aforesaid work on 16th February, 2022 by respondent no.2 – the Executive Engineer, Harbour Engineer, Ratnagiri Harbour Division, District – Ratnagiri. The period of completion of the work was

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one year. The petitioner participated in the aforesaid bid and according to him he was L1 bidder, however, the work order was not issued to the petitioner. The petitioner, therefore, filed this petition seeking direction to the respondent nos.1 to 3 to forthwith issue the work order.

4. Admittedly, during the pendency of this writ petition, a fresh notice inviting tender has been issued on 4th August, 2023. It is also not in dispute that the petitioner, in response to the aforesaid notice inviting tender, has submitted its bid. The learned counsel for the petitioner submitted that some politicians were demanding bribe from the petitioner and since the petitioner did not pay the amount to the politicians, the work order was not issued in its favour. It is, therefore, submitted that the writ petition be allowed and work order be directed to be issued in favour of the petitioner.

5. On the other hand, learned Addl. Government Pleader for respondent no.1, on instructions, submits that the period of contract was one year. The said period has already been expired and thereafter another notice inviting tender was issued on 4th August, 2023. It is also pointed out that in response to the same, the petitioner has submitted its bid, however, no action was taken to finalize the bid on account of pendency of instant writ petition. Thereafter, on 6th February, 2025 decision has been taken by respondent no.2 to invite the fresh tender as bid validity period has expired.

6. A copy of the aforesaid letter dated 6th February, 2025 has been tendered by the learned Addl. Govt. Pleader, which is taken on record.

7. We have considered the submissions made by the learned counsel for the parties and perused the record.

8. It is trite law that the action of the State Government or its instrumentality acting in contractual field is subject to constitutional mandate contained in Article 14 of the Constitution of India. In the instant case, admittedly, during the pendency of the instant writ petition, another notice inviting tender was issued on 4th August, 2023. It is also not in dispute that the petitioner had submitted its bid in response to the aforesaid notice inviting tender. Thereafter, no decision could be taken to finalize the aforesaid tender process. By an order dated 6th February, 2025, on account of expiry of the period of validity of the tender, the decision has been taken by the respondent no.2 to invite the fresh tender. The petitioner has no indefeasible right in law to say that the work order be issued in its favour which even otherwise cannot be issued to it on account of subsequent events, which have been taken place during the pendency of the petition.

9. Needless to state that as and when the subsequent bid is issued, the petitioner is at liberty to participate in the same.

10. With the aforesaid liberty, the writ petition is disposed of.

11. Pending interim applications, if any, stand disposed of.

(BHARATI DANGRE, J.)

(CHIEF JUSTICE)