



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

WRIT PETITION NO.11893 OF 2024

1. M/s. LTPS infra-Pvt. Ltd.]
Through director]
Mr. Lahu Laxman Patil,]
Address:111, 112 & 113, Sai Arcade,]
Opp. S. T. Stand, Line Ali,]
Panvel – 410 206.]
2. M/s. Aashirwad Construction]
Through Partner]
Mr. Rohidas Punaji Bhagat,]
Address:D-609, 4th Floor, Vashi Plaza,]
Sec – 17, Vashi, Navi Mumbai-400 703.]
3. M/s. Ramesh Enterprises]
Through Proprietors]
Ramesh Lahu Patil]
Address:Pratik Co-op. Hsg.]
Plot No.8, 1st Floor, 'A' Wing,]
Flat No.101, Sector – 10,]
Airoli, Navi Mumbai – 400 708.]
4. M/s. Ekveera Enterprises]
Through its Proprietor]
Nilesh Chandu Patil,]
Address: Diva Koliwada,]
Thane - Belapur Rd., Sec - 9, Airoli,]
Navi Mumbai – 400 708.]
5. M/s. Ekveera Suppliers]
Through its Proprietor]
Raju Atmaram Madhavi,]
Address:Janabai Niwas,]
Near Hanuman Temple, Airoli Gaon,]
Airoli, Navi Mumbai – 400 708.]
6. M/s. Ravindra Atmaram Madhavi]
Through its Proprietor]

Ravindra Atmaram Madhavi]
 Address:21, Janabai Nawas, Airoli Gaon,]
 Near Hanuman Mandir, Airoli,]
 Navi Mumbai, Thane – 400 708.]

7. M/s. Yojana Construction]
 Through partner]
 Pratik Narayan Bhoir]
 Address:House No.677/002, 1st Floor,]
 Nerul Gaon, Near N M M C Hospital,]
 Sector – 20, Nerul (W), Navi Mumbai,]
 Thane – 400 706.]

8. M/s. Pranali Transport]
 Through proprietor]
 Rohidas Sudam Bhagat]
 Address:Om Sai Deep, House No.362,]
 Plot No.246, Vashigaon,]
 Navi Mumbai – 400 703.]

9. M/s. A. H. Palekar]
 Through proprietor-Anil Palekar]
 Having Address at Valvali,]
 Post Navade/Tal-Panvel, Dist. Raigad,]
 Pin code – 410 208.]

10. M/s. Sanjay Enterprises]
 Through Authorized Signatory]
 Mahesh Bhoir]
 Address:Hari Mahal Co.op.Housing Soc.,]
 Shop No.3, Sector–5A, Plot No.43/33/45]
 Opp. Railway Crossing, New Panvel (E),]
 Navi Mumbai – 410 206]

...Petitioners

Versus

1. City and Industrial Development]
 Corporation of Maharashtra Ltd.]
 Through its Vice-Chairman Aid]
 Managing Director, Maharashtra,]
 CIDCO Bhavan, CBD Belapur,]
 Navi Mumbai – 400614.]

- | | | |
|----------------------------------|---|-----------------|
| 2. The Superintendent Engineer, |] | |
| Palghar & Railway, CIDCO, |] | |
| 6th Floor, CIDCO Bhavan, |] | |
| CBD-Belapur, Navi Mumbai. |] | |
| 3. The State of Maharashtra |] | |
| Through Principal Secretary |] | |
| Urban Development Department |] | |
| Government of Maharashtra, |] | |
| Mantralaya, Mumbai, Maharashtra. |] | ... Respondents |

Mr Vijay Kurle a/w Mr Pratik Sarkar, for the Petitioners.

Mr Ashutosh M. Kulkarni a/w Mr Akshay R. Kulkarni, for Respondent Nos.1 and 2-CIDCO.

Mr O. A. Chandurkar, Additional Government Pleader a/w Ms G. R. Raghuwanshi, AGP for Respondent No.3.

***CORAM : ALOK ARADHE, CJ &
M. S. KARNIK, J.***

DATE : 26th MARCH, 2025

JUDGMENT (Per M. S. Karnik, J.) :-

1. By this Petition under Article 226 of the Constitution of India, the Petitioners inter alia seek to set aside the impugned notice dated 3rd August 2024 inviting bid by CIDCO and thereby seeking a direction to reissue the bidding process in terms of the policy for the PAPs with necessary changes. The Petitioners pray for further declaration that Clause Nos.10.a,

10.b and 10.c of the impugned notice inviting bid as arbitrary, unreasonable and illegal.

2. The Petitioners are Firms/Companies formed by Project Affected Persons (PAPs). The companies undertake contract of Housekeeping, Cleaning, Sweeping and sanitation services.

3. Mr Kurle, learned counsel for the Petitioners submitted that it is the policy of CIDCO to give preference while awarding contracts for the aforesaid works to the PAPs. The CIDCO is a Government of Maharashtra undertaking duly registered and incorporated under the Companies Act, 1956. CIDCO is now functioning as New Town Development Authority (NTDA) and Special Planning Authority (SPA) of Government of Maharashtra for development of new towns by planning and developing entire urban infrastructure, providing municipal services and executing large scale infrastructure projects. CIDCO issued notice dated 3rd August 2024 inviting bids through the process of e-bidding for online item rate percentage bids from the prospective experienced bidders who have carried out similar type of works indicated hereinbefore and as mentioned in the notice.

4. As a result of acquisition of lands more than two decades ago, many persons lost their lands and hence CIDCO came out with a policy for compensating the PAPs. To help the PAPs survive with dignity, priority was given to the PAPs in the matter of employment in such works. Mr Kurle submitted that till the last bidding date 11th March 2024, this policy has been adhered to. He submits that there is a policy for the employment of PAPs. He relies upon the earlier notice which stated that 'CIDCO of Maharashtra Limited through the process of e-bidding invites "ON LINE" Item Rate Percentage Bids from the experienced CIDCO PAP's/PAP's of Navi Mumbai who have carried out Housekeeping, Cleaning, Sweeping & Sanitation Services for Railway Stations Complex & Forecourt Area, Metro Stations of Navi Mumbai area for the works mentioned below...', in support of this submission about the existence of a policy. Mr Kurle submitted that this is demonstrative of the fact that priority for an opportunity of employment is an accepted policy as a part of the long term benefit CIDCO has assured to the PAPs for their survival. The PAPs have been serving CIDCO since more than two decades and hence they are very well experienced fulfilling the prime

requirement of CIDCO as stated in the notice inviting bid.

5. It is the grievance of the Petitioners that CIDCO issued the impugned notice inviting bid dated 3rd August 2024 in open category without giving preference to the PAPs as per aforementioned policy for PAPs and secondly, the Respondent-CIDCO also have restrained the Petitioners as well as PAPs from participating in this open bidding process by way of inserting the following illegal and unreasonable conditions in the impugned notice which read thus :-

- "1. Maximum two bids to be awarded in case the same bidder found lowest in more that two bids.
2. The Bidders who have been already awarded two contracts at Railway Stations of MBR., TTNV, BPR & NUR Rail Corridor under PAP category shall restrain from the participation in this Bid.
3. The financial bid of those will not be opened if they have been awarded two contracts of cleaning and sweeping under PAP category after their participation in the bidding process of this bid, even though they are qualified in technical bid evaluation."

6. It is therefore the submission of Mr Kurle that the said clauses are arbitrary and illegal in view of the existing policy for the PAPs. The notice is unreasonable and also completely against the larger public interest as well as that of CIDCO itself. It is alleged that the same has been inserted with oblique motive to benefit some pre-determined private parties

only to favour them. Mr Kurle then submitted that the notice inviting bid on an earlier occasion which was in contravention of the policy for the PAPs was challenged in this Court vide Writ Petition No.8282 of 2022 filed by Mr Gurunath Goma Mhatre. CIDCO had then taken a decision to cancel the bidding process and accordingly a fresh notice was issued giving preference to PAPs. The minutes of the meeting which formed the basis for cancellation of the tenders was relied upon. The case of the Petitioners thus is that they have a preferential right for being awarded contracts for the work of Housekeeping, Cleaning, Sweeping and Sanitation as they have been given this right for the last two decades.

7. Mr Kulkarni, learned counsel for CIDCO, at the outset referred to a note dated 6th December 2021 signed by the CE(NMIA) relied upon by the Petitioners in their additional affidavit dated 2nd September 2024. Mr Kulkarni submits that CIDCO will abide by the proposal incorporated in the said note which reads that "In case of more than one bidder quoted lowest bid amount (L1), then preference will be given to CIDCO PAP bidder."

8. We have heard learned counsel and perused the materials on record. We find that there is no policy document placed on record which demonstrates that CIDCO agreed to give preference to PAPs in the matter of these contracts. As a result of land acquisition for CIDCO, many agriculturists became landless. There were agitations opposing the acquisition. Therefore, as a compensatory package, in addition to usual land acquisition benefits, CIDCO came up with 12.5% scheme, whereby developed plots at 12.5% of the acquired land were allotted to PAPs. Insofar as development works carried out by CIDCO are concerned, taking into consideration the loss of the land and contribution of PAPs in Navi Mumbai Project, only by way of compassionate approach to award non-specialized works to PAPs, CIDCO has been giving some priority while awarding such non-specialized works to the entities formed by PAPs. There are no policies placed on record and even CIDCO has denied the existence of any such policy to award exclusively or by way of preference the contract/tenders to the PAPs or entities formed by PAPs. CIDCO has emphatically denied the existence of any policy on the basis of which the entire Petition is founded. We are of the

firm view that the Petitioners have not been able to establish any right for a contract to be awarded in their favour only because they are PAPs. No doubt the concerns of the PAPs has to be looked at compassionately, which in our opinion CIDCO has done so for the last two decades. A stand is taken that even hereafter, preference in the nature as provided in the 2021 note referred to above will be given due weightage.

9. CIDCO floated 31 tenders for cleaning, sweeping and sanitation services for Railway station platforms with common circulation areas and forecourt area spread across various Railway corridors in Navi Mumbai area. Out of these total 31 tenders, 23 e-bids i.e. almost 75% of total bids were invited keeping eligibility exclusively for the entities formed by PAPs. Out of 23 floated tenders, 21 tenders are actually awarded to various PAP entities. Petitioner Nos.1, 2, 3, 4, 6, 7, 8, 9 and 10 have been awarded two 2 tenders each, while Petitioner No.5 has been awarded 1 tender. Thus, total number of tenders awarded to Petitioners is 19. The remaining 2 tenders are also awarded to PAP agency who is not the Petitioner in the said Writ Petition. This process was completed pursuant to bid notice dated 11th March 2024.

10. After the notice inviting bids dated 11th March 2024 was published keeping eligibility only for PAPs, there were many objections raised by Non-PAP entities alleging discrimination by the CIDCO in the matter of tenders. Therefore, in respect of remaining 8 bids, the CIDCO floated tenders keeping the eligibility non-PAP specific and applicable to all otherwise eligible entities which is challenged by way of the present Writ Petition.

11. From the record we find that almost every Petitioner has been awarded one or two tenders for different Railway corridors. In our opinion the Petitioners cannot monopolize in their favour all tenders of cleaning, sweeping and sanitation services at all Railway corridors in Navi Mumbai and insist that they should be allotted only to PAP entities.

12. So far as the tender under challenge which is in question, the PAP entities are entitled to participate and they are not barred completely from participating. However, they have to compete with all other non-PAP entities also. The eligibility as regard experience for PAP entities has been broadened. All PAP entities who have experience of similar

work at ports, airports, bus terminus, PSUs, Government Hospitals/building and public sector buildings are entitled to participate in the tender, without restricting the eligibility or experience of carrying out similar work only at Railway station platforms and forecourt area and Metro stations. Thus, any PAP entity who is fulfilling the eligibility is entitled to participate in the present tender as well which decision cannot be said to be irrational or arbitrary.

13. As regards the challenge to tender condition No.10.a we find that in the earlier tender floated on 11th March 2024, the same condition was appearing, of which the Petitioners are beneficiaries. It is now not open for them to challenge the same only because for the purposes of this tender they are find this clause inconvenient. Condition No.10.b and 10.c have been inserted with a view to avoid monopoly of any particular PAP entity. So also it is the stand of CIDCO that this is necessary with a view to enable the concerned bidder to carry out the work under the tender effectively, satisfactorily and in the interest of public at large. The challenge in our opinion is completely misconceived and we do not find any arbitrariness or irrationality in the said clauses.

14. It is a settled principle of law that the author of the tender is the best person to frame the conditions about the eligibility criteria because the author only knows what kind of work is to be accomplished by way of tender. If a tender has been issued with a view to avoid concentration of work and monopolistic consequences in the hands of few entities, we do not find that such an approach unreasonable or arbitrary.

15. We must observe that even though there is no written policy in existence, CIDCO has been adopting a reasonable approach for the last two decades to alleviate the sufferings of the PAPs who were rendered landless as a result of the acquisition. As indicated earlier, apart from the compensation for the land acquisition and the benefit of the developed plots at 12.5% of acquired land allotted to PAPs, awarding tenders to PAPs was a compassionate measure adopted by CIDCO to help them. The Petitioners therefore cannot claim exclusive rights that the tender has to be awarded only in favour of the Petitioner Companies formed by PAPs merely because for the last two decades preference was given to them.

16. We do not find the approach of CIDCO unreasonable or arbitrary justifying our interference in the exercise of writ

jurisdiction of this Court under Article 226 of the Constitution of India. We have no manner of doubt that CIDCO will keep the concerns of the Petitioners in mind while balancing all relevant considerations in the matter of awarding of tenders in future also. The clause in the note viz. "In case of more than one bidder quoted lowest bid amount (L1), then preference will be given to CIDCO PAP bidder." as submitted by Mr Kulkarni on instructions will be given due weightage in future tender processes.

17. The Writ Petition is disposed of in the above terms. No order as to cost.

(M. S. KARNIK, J.)

(CHIEF JUSTICE)