

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

**WRIT PETITION NO. 4589 OF 2025
with
WRIT PETITION NO. 5745 OF 2025
with
WRIT PETITION NO. 5746 OF 2025
with
WRIT PETITION NO. 5747 OF 2025
with
WRIT PETITION NO. 5748 OF 2025**

Shubham Udyog through its Proprietor
Hanumant Y. Waghare

... Petitioners

V/s.

Pimpri Chinchwad Municipal Corporation
through its Municipal Commissioner and Ors.

... Respondents

Mr. Girish Godbole, Senior Advocate i/b. Sumit Kothari for Petitioners
Mr. Shrikrishna Ganbavale i/b. Shantanu Patil for the Respondents

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

DATE : 29th APRIL 2025

Order (Per Chief Justice) :

1. At the outset, the learned Senior Advocate for the Petitioners seeks to delete Respondent Nos. 3 and 4 from the array of the Respondents. He is permitted to do so.
2. Rule. Rule is made returnable forthwith. With consent of the parties, heard finally.

3. In these Writ Petitions, the Petitioners *inter-alia* seek a writ of certiorari to quash and set aside the decision of Pimpri Chinchwad Municipal Corporation (hereinafter referred to as the “**Corporation**”) in rejecting the technical bid of the Petitioners. In addition, the Petitioners seek a writ of mandamus directing the Corporation to open the financial bid of the Petitioners.

4. Facts giving rise to filing of these Petitions in nut shell are that the Joint Director of the Corporation issued an E-tender on 14th February 2025 for the work of operations, maintenance and related works of various pump stations with different reserve prices. The subject matter of the Petitions is tender nos. 1 to 3, 9 and 10 in the aforesaid tender. The last date for submitting the bid was 24th February 2025 whereas the bids were required to be opened on 27th February 2025.

5. Clause 13 of the notice inviting tender prescribes the eligibility criteria. Clauses 13.2 and 13.3 which are relevant for the purposes of the controversy involved in the Petitions are extracted below for the facility of reference :-

“**13.2** provides that in the preceding five years, the contractor must have completed at least one similar work having a minimum value price of -

(a) 3 similar works where the contract value should not be less than 40% of the estimated value of the tender or

(b) 2 similar works where the contract value should not be less than 50% or

(c) 1 similar work where the contract value should not be less than 80% if the estimated value of the tender.

13.3. The minimum quantum of contract price of similar work in the last five years for at least one in the last five years for major portion of work.”

6. The Petitioners along with their bid submitted the following documents :-

“(i) contract for operation of Sanghavi and Dapodi Pure Water Pump houses (2022-23). Tender amount Rs.1,28,20,806 (Revised Tender amount Rs.2,09,26,276/-). The tender is issued by PCMC. The date of completion in the tender is 12.06.2024 and extension granted till 31.03.2025.

(ii) contract for operation of Rhatani. Charoli and Dighi Pure Water Pump Houses (2022-23). Tender amount Rs.1,65,87,270/- (Revised Tender amount Rs.3,75,82,311/-). The tender is issued by PCMC. The date of completion in the tender is 12.06.2024 and extension granted till 31.03.2025.

(iii) contract for operation of Krishnawadi, Patil Wadi, Jadhav Wadi Sec 10 and 22 Pure Water Pump House (2022-23). Tender amount Rs.1,85,39,334 (Revised Tender amount Rs.2,78,78,520/-). The tender is issued by PCMC. The date of completion in the tender is 21.02.2022 and extension granted till 30.09.2024.”

7. The Corporation, however, on 28th March 2025 rejected the technical bid of the Petitioners. In the aforesaid factual background, these Petitions have been filed.

8. The learned Senior Advocate for the Petitioners, while inviting the attention of this Court to the eligibility criteria contained in Clauses 13.2

and 13.3 of the notice inviting tender as well as the documents annexed with the tender submitted that the Petitioners have the requisite experience of operation and maintenance of the pump stations. In this connection, our attention has been invited to the documents annexed along with the Petitions at page 106 i.e. the experience certificate issued by the Corporation itself. It is further submitted that the decision of the Corporation to reject the technical bid of the Petitioners is irrational and is unreasonable and therefore, cannot be sustained in the eye of law.

9. On the other hand, the learned Counsel for the Corporation submitted that the Petitioners does not have the experience of operation and maintenance of the pump station but has only supplied the skilled and semi-skilled labour for maintenance of the pump station which is evident from the bills annexed by the Petitioners themselves. The learned Counsel for the Corporation has invited the attention of this Court to averments made in paragraphs 5 and 6 of the affidavit in reply filed by one Mr. Nitin Deshmukh, Joint City Engineer in the Pimpri Chinchwad Municipal Corporation.

10. We have considered the rival submissions made on both sides and have perused the record.

11. The decision to award the contract has to be taken on the touchstone of the eligibility criteria laid down in the notice inviting tender

and on consideration of the entire material. From the affidavit in reply annexed on behalf of the Corporation as well as the submissions made on behalf of the Corporation, it is evident that the Corporation has taken into account the bills produced by the Petitioners in support of its conclusion and has formed an opinion that the Petitioners have the experience only with regard to supply of skilled and semi-skilled persons for maintenance of the pump stations and has no experience of operation and maintenance of the pump stations.

12. It is pertinent to note that the document which has been annexed by the Petitioners at page 106 has been issued by the Corporation. The aforesaid experience certificate dated 19th September 2024 clearly states that the Petitioners have the requisite experience of operation and maintenance of the pump stations. The non-consideration of the aforesaid relevant document which has a material bearing on the issue of eligibility of the Petitioners, has vitiated the decision taken by the Respondents with regard to ineligibility of the Petitioners. The impugned decision to disqualify the Petitioners appears to have been taken in a casual and cavalier manner and suffers from the vice of non-application of mind. The impugned decision disqualifying the Petitioners' technical bid on the ground that the Petitioners is not eligible as it does not have the requisite experience of operation and maintenance of pump stations is hereby quashed and set aside.

13. The Corporation is directed to consider the technical bids of the Petitioners in the light of documents annexed by the Petitioners along with its bids and to take a fresh decision by a speaking order.

14. Accordingly, the Petitions are disposed of.

(M.S. KARNIK, J.)

(CHIEF JUSTICE)

JYOTI
PRAKASH
PAWAR

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by JYOTI
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Date: 2025.04.30
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