

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 5949 OF 2025

Sitaram Travels

....*Petitioner*

: *Versus* :

1. State of Maharashtra
2. Mira Bhaindar Municipal Corporation
3. Deputy Commissioner (Encroachment)
4. M/s. Shree Ganesh Construction
5. Guruji Construction Pvt. Ltd.

.....*Respondents*

Mr. A.Y. Sakhare, Senior Advocate *i/by. Mr. R. S. Mirpuray,*
for the Petitioner.

Mrs. Neha S. Bhide, Government Pleader *with Mrs. S. D. Vyas,*
Additional Government Pleader and Mrs. Gauri Raghuvanshi, AGP for
Respondent No.1-State.

Mr. Mayuresh S. Lagu *with Mr. Sagar Patil, for Respondent*
Nos. 2 and 3.

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

DATED : 23 July 2025.

P.C. : *(Per Sandeep V. Marne, J.)*

1) Petitioner has filed this petition challenging rejection of its bid even though it is adjudged as 'L-1' bidder after being declared technically qualified. Petitioner has also challenged award of the work orders to Respondent Nos.4 and 5.

2) In July 2024, Mira-Bhaindar Municipal Corporation floated tender for providing 100 contract labourers for a period of 2 years for clearance of encroachment, demolition of unauthorized constructions and removal of illegal hawkers. Petitioner participated in the said tender and believes that he was L-1 bidder. However, the tender process was cancelled. Therefor fresh tender was issued in October 2024, in which again the Petitioner participated but the process was cancelled. On 6 February 2025, fresh tender notice was issued, in which the Petitioner participated. The technical bids were opened on 7 March 2025 in which Petitioner, Respondent Nos.4 and 5 and two other bidders were found technically qualified. On 15 April 2025, financial bids were opened and the Petitioner emerged as L-1 bidder. On 21 April 2025, Petitioner was orally informed in a meeting that its bid was rejected. Petitioner made representations and has thereafter filed the present petition. During pendency of the petition, the Respondent-Municipal Corporation has awarded the work orders to Respondent Nos. 4 and 5 vide decision dated 29 May 2025, which is challenged by the Petitioner by amending the petition.

3) Mr. Sakhare, the learned Senior Advocate appearing for the Petitioner would submit that Respondent-Municipal Corporation has erred in awarding work to Respondent Nos.4 and 5 even though Petitioner is admittedly adjudged 'L-1' after opening of financial bids. That Petitioner's technical bid was adjudged responsive and thereafter his financial bid was opened. That once the technical bid is qualified, decision to award tender must be fair and proper and should ordinarily be in favour of L-1 bidder. That award of contract to Respondent Nos.4 and 5 would cause financial loss to the Municipal Corporation. That the bid of the Petitioner is substantially lower. That the reason of percentage of service charge indicated by the Respondent-Municipal Corporation for rejection of bid of the Petitioner is whimsical and arbitrary. That Petitioner merely rounded off the figure of service charge from Rs.38.0765/- to Rs.38/- for the sake of convenience. That Petitioner did not increase the amount of service charges, but infact reduced the same. That therefore there was absolutely no reason for the Municipal Corporation to reject Petitioner's bid.

4) The petition is opposed by Mr. Lagu, the learned counsel appearing for Respondent Nos.2 and 3. He would submit that though the Petitioner was adjudged 'L-1', the quote made by it in respect of the service charges went beyond the band prescribed by the Central Government. That the Central Government has issued guidelines prescribing minimum and maximum limits for levy of service charge ranging between 3.85% to 7%. That the rate of Rs.38/- quoted by the Petitioner falls below the limit of 3.85%. That therefore the Municipal

Corporation was left with no alternative but to reject the bid of the Petitioner. That the action of Respondent-Municipal Corporation is fair and there is no element of arbitrariness and irrationality in the decision making process. He would accordingly pray for dismissal of the petition.

5) We have also heard Mrs. Bhide, the learned Government Pleader appearing for the Respondent No.1-State.

6) Rival contentions of the parties now fall for our consideration.

7) There is no dispute to the position that Petitioner's bid was technically qualified. After opening of the financial bids, Petitioner has emerged as L-1. The tender was floated for provision of 100 number of contract labourers for a period of 2 years for removal of encroachment/unauthorized constructions /illegal hawkers etc. It appears that the rate per day per contract labourer is fixed at Rs.989/- per day. The bidders were expected to quote service charges/administrative charges in the prescribed range of 3.85% to 7%. The said range was made known to all the bidders and was based on the guidelines issued by the Government of India vide Office Memorandum dated 17 January 2024. The service/administrative charges go in the accounts of the contractors whereas the wages get paid to contract workers.

8) After opening of the financial bids, it was found that Petitioner had quoted service charge of Rs.38/- which fell below the prescribed limit of 3.85%. It is on account of this factor that

the Municipal Corporation is required to reject the bid of the Petitioner since the same was found to be in violation of Office Memorandum dated 17 January 2024. Therefore, though the Petitioner's bid is found to be L-1, the Municipal Corporation has not accepted the same on account of rate of service charges quoted by him travelling beyond the band/range prescribed vide Office Memorandum dated 17 January 2024.

9) No bidder has right to secure contract merely because he is adjudged L-1 bidder. In the given circumstances, it is for the tendering authority to award contract even to non L-1 bidder considering the facts of the case. So long as the decision of the tendering authority is fair and does not suffer from the vice of arbitrariness or irrationality, the courts would be loathe in interfering in the decision making process of the tendering authority.

10) In the present case, the Municipal Corporation has acted fairly and its decision does not suffer from arbitrariness or irrationality. It has rejected the bid of the Petitioner only because it travelled beyond the range prescribed for levy of service charges. In our view, therefore there is no scope for interference in the impugned decision of the Municipal Corporation. The petition must fail. It is accordingly **rejected**.

[SANDEEP V. MARNE, J.]

[CHIEF JUSTICE]