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

WRIT PETITION NO. 8179 OF 2025

J.K. Modern Pool, Management and Services
through its Proprietor

... Petitioner

V/s.

Nashik Municipal Corporation through
Commissioner and Ors.

... Respondents

Ms. Sayali Gutte, for the Petitioner.
Mr. M.L. Patil, for the Respondents.

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

DATE : 25 JUNE 2025

PC. :

1. Heard learned Counsel for the parties on the question of admission.

2. In this Petition, the Petitioner has assailed the validity of the action of Nashik Municipal Corporation (hereinafter referred to as the Corporation) in issuing the E-Tender for management and maintenance services (hereinafter referred to as subject work) of Chatrapati Shivaji Maharaj Swimming Pool (Jaltaran Talao) located at Survey No. 705 for a period of 10 years on leave and license basis.

3. Facts giving rise to filing of this Petition briefly stated are that the Corporation has issued a tender dated 29 April 2025. The Petitioner participated in the aforesaid tender and was declared the highest bidder. However, the work order was not issued to the Petitioner on the ground that the Petitioner does not fulfill the eligibility criteria mentioned in the notice inviting tender. Accordingly, by an order dated 29 April 2025, the Petitioner was held ineligible. The Petitioner thereupon filed a Writ Petition viz. Writ Petition No. 6187 of 2025 in which the validity of the aforesaid order was challenged. During the course of the hearing the learned Counsel for the Respondent – Corporation submitted that the Nashik Municipal Corporation has decided to issue a fresh tender.

4. The Writ Petition preferred by the Petitioner therefore was disposed of by an order dated 6 May 2025 with the liberty to the Petitioner to challenge the decision of the Corporation to reissue the tender. Hence, this Petition.

5. The learned Counsel for the Petitioner submits that the Petitioner was the highest bidder and therefore, the contract ought to have been awarded to it. It is further submitted that the decision to re-tender the work has been taken arbitrarily and unilaterally. It is also urged that mere apprehension of lack of expertise is no ground to cancel the tender. In

support of aforesaid submission, reliance has been placed on judgment of the Supreme Court in *Subodh Kumar Singh Rathour v/s. The Chief Executive Officer*¹.

6. We have considered the submissions made by the learned Counsel for the Petitioner and have perused the record.

7. It is well settled in law that the highest bidder has no right in law to insist that his/its bid should be accepted and he/it should be awarded the contract. In the instant case, the bid of the Petitioner was rejected by an order dated 29th April 2025 on the ground that the Petitioner has no experience of conducting swimming pool but has experience only in training and maintenance of swimming pool. Thus, the tendering authority came to the conclusion that the Petitioner does not fulfill the eligibility criteria. It is trite law that this Court, in exercise of powers of judicial review, does not sit in appeal over decision taken by the tendering authority. Since the Petitioner was not found eligible, the authority has taken a decision to re-issue the tender. It was always open for the Petitioner to participate in the aforesaid tender if it believed that it has acquired the requisite eligibility criteria prescribed in the fresh tender document. For the aforementioned reasons, no case for interference is made out.

1 2024 SCC OnLine SC 1682

8. In the result, the Writ Petition fails and is hereby dismissed.

(SANDEEP V. MARNE, J.)

(CHIEF JUSTICE)