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

**WRIT PETITION NO. 12093 OF 2025**

Sukiba Management Sercices Pvt. Ltd. .. Petitioner

Versus

Nashik Municipal Coproation & Anr. .. Respondents

...

Mr. Hare Krishna Mishra a/w Ms. Neelam Yadav a/w Mavali Jadhav, Advocates for the Petitioner.

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**CORAM : SHREE CHANDRASHEKHAR, CJ &**
**GAUTAM A. ANKHAD, J.**

**DATE : 9th OCTOBER 2025.**

**P.C. :**

The petitioner-Company which was a participant in the tendering process pursuant to the Tender Notice No.3 of 2025 issued through the website of Nashik Municipal Corporation seeks cancellation of work order issued in favour of 2nd respondent, namely, N. H. Patel Contractor on 1st August 2025.

2. The documents on record indicate that the petitioner-Company ranked at S. No.3 in terms of the financial bids submitted by the bidders. The objection raised on behalf of the petitioner-Company is that the mandatory conditions under the Notice Inviting Tender (NIT) and in processing for the financial bids were not followed and work order has been issued in favour of 2nd respondent on 1st August 2025.

3. In our opinion, in a tendering process in which there were three eligible bidders, a challenge to award of tender in favour of L1 bidder cannot be laid by L3 bidder. Admittedly, there is a huge gap in the

price quoted by the L1 bidder and the other two bidders. Generally, award of tender which is considered a commercial decision by the Employer is not interfered with by the writ Court in exercise of the powers under Article 226 of the Constitution of India. The decision of the Employer is not liable for interference on mere showing of some mistake in award of the tender. It is, by now, well accepted that the decision of the Employer has to be given precedence in view of the fact that it is the Employer who can assess the capacity and capability of the successful bidder so as to ensure timely completion of the work under the tender.

4. In "*Association of Registration Plates v. Union of India & Ors.*" (2005) 1 SCC 679, the Hon'ble Supreme Court observed as under: -

> *35. Taking up first the challenge to the impugned conditions in the notices inviting tenders issued by various State authorities, we find sufficient force in submissions advanced on behalf of the Union and the State authorities and the contesting manufacturers. The State as the implementing authority has to ensure that the scheme of high security plates is effectively implemented. Keeping in view the enormous work involved in switching over to new plates within two years for existing vehicles of such large numbers in each State, resort to "trial-and-error" method would prove hazardous. Its concern to get the right and most competent person cannot be questioned. It has to eliminate manufacturers who have developed recently just to enter into the new field. The insistence of the State to search for an experienced manufacturer with sound financial and technical capacity cannot be misunderstood. The relevant terms and conditions quoted above are so formulated to enable the State to adjudge the capability of a particular tenderer who can provide a fail-safe and sustainable delivery capacity. Only such tenderer has to be selected who can take responsibility for marketing, servicing and providing continuously the specified plates for vehicles in large numbers, firstly in the initial two years, and annually in the next 13 years. The manufacturer chosen would, in fact, be a sort of an agent or medium of the RTOs concerned for fulfillment of the statutory obligations on them of providing high security plates to vehicles in accordance with Rule 50. Capacity and capability are the two most relevant criteria for framing suitable conditions of any notices inviting tenders. The impugned clauses by which it is stipulated that the tenderer individually or as a member of a joint venture must have an experience in the field of registration plates in at least three countries, a common minimum net worth of Rs 40 crores and either*

> *joint-venture partner having a minimum annual turnover of at least Rs 50 crores and a minimum of 15% turnover of registration plates business have been, as stated, incorporated as essential conditions to ensure that the manufacturer selected would be technically and financially competent to fulfill the contractual obligations, which, looking to the magnitude of the job, requires huge investment qualitatively and quantitatively."*

5. In view thereof, no case is made out for interference in this writ petition and, accordingly, Writ Petition No. 12093 of 2025 is dismissed.

**[GAUTAM A. ANKHAD, J.]** **[CHIEF JUSTICE]**

PRAVIN DASHARATH PANDIT

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