

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

WRIT PETITION NO.14294 OF 2025

Diti Developers,]
A partnership firm incorporated under the]
provisions of the Indian Partnership Act, 1932]
having its office at Office No.18, Krushi Plaza,]
Plot No.15, Sector 19, Opp. Mathadi Bhavan,]
Vashi – 400 705.] .. Petitioner

Versus

City and Industrial Development Corporation]
of Maharashtra Ltd.,]
Nirmal, 2nd Floor, Nariman Point,]
Mumbai – 400 021.] .. Respondent

Mr. Aditya Udeshi with Mr. Rahul Sanghvi, Advocates, i/by Sanjay Udeshi and Co., for the Petitioner.

Mr. Soham Bhalerao, Advocate, i/by DSK Legal, for the Respondent-CIDCO.

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

DATE : 18TH NOVEMBER 2025.

PER, GAUTAM A. ANKHAD, J.

The petitioner has filed this writ petition challenging the order dated 20th August 2025, whereby the respondent rejected the petitioner's bid in respect of Plot No. 8A, Sector-13, Kalamboli, Navi Mumbai (in short, "the plot").

2. The brief facts relevant for this petition are as follows:

- (a) Pursuant to an advertisement issued by the respondent, the petitioner submitted its bid for allotment of the plot. The petitioner deposited

Rs.1.50 crores towards Earnest Money Deposit (in short, “EMD”) on 23rd July 2024. An auction was conducted, in which the petitioner’s bid of Rs. 1,70,098/- per sq mt was declared as the highest bid for the plot. However, the allotment letter was not issued. Upon enquiry, the petitioner learnt that the respondent had decided to withhold the issuance due to certain pending litigation, which ultimately came to be resolved on 10th June 2025.

(b) On 16th June 2025, the petitioner addressed a letter requesting the respondent to issue the allotment letter, followed by a reminder on 11th August 2025. By the impugned order dated 20th August 2025, the respondent rejected the petitioner’s bid stating that the rate quoted by the petitioner was more than a year old and substantially below the prevailing market potential. The respondent also recorded that no right accrued in favour of the petitioner merely by submission of its bid. The operative part of the impugned order reads as under:

- “1. Considering the current market potential, there would be a considerable loss to the public exchequer, if the Plot No.8A, Sector-13, Kalamboli is allotted to M/s. Diti Developers today at rs.1,70,098- per Sqm i.e. at last year’s rate under Scheme No.MM/SCH-39/2024-25 as the Corporation has received highest rate of Rs.2,05,205/- per Sqm for Plot No.14, Sector 9E in the same Kalamboli Node which is an adjacent sector in current Scheme No.44/2025-26. It is to be noted that the rate received now is 20% higher than the last year rates.*
- 2. Accordingly, the bid of M/s. Diti Developers for the subject plot is hereby rejected.”*

3. Mr. Udeshi, the learned counsel for the petitioner, submitted that the cancellation of the bid is arbitrary and contrary to the

doctrine of promissory estoppel. He contended that the respondent, could not have cancelled the bid once it was accepted by the respondent in a public auction. There is no basis for the respondent's conclusion that issuing the allotment letter would result in a loss, by comparing the bid amount with prices in an adjacent area. He also argued that in the alternative the refund of the EMD ought to be directed and the respondent ought to pay interest at the same rate at which it levies penal charges on defaulting bidders.

4. We have heard the learned counsel and perused the record. We find no merit in the petition. Clauses 6 and 13 of the tender document are relevant and read as under:

“6) In case if numbers of bids received for any particular Plot is less than three, then the final decision on such allotment will be taken by the Corporation and the same shall be binding on concerned bidders. These offers may either be accepted or rejected and until final decision is taken, the EMD amount of these bidders will not be refunded. Corporation reserves the right to cancel, amend, revoke, modify the conditions of the scheme at its discretion or reject any or all offers/plots without assigning any reasons thereof. In case of cancellation of the plot/scheme, bidder will not have any say.

13) The Vice Chairman and Managing Director, CIDCO reserves all rights to reject/cancel any or all bids/plots without assigning any reason thereof.”

5. It is evident that the tender expressly reserves the respondent's right to cancel any bid or scheme without assigning reasons. Despite this contractual liberty, the respondent has passed a reasoned order stating that the petitioner's bid is rejected to prevent loss to the public exchequer. In our view, this is a valid basis for the impugned rejection. The respondent's order cannot be termed as arbitrary or irrational, that warrants any interference from this Court. We also do not find any infirmity in the decision-making process. In any case merely because a bid has been accepted, a vested right does not accrue in favour of a bidder.

There is no concluded contract in favour of the petitioner. Hence the doctrine of promissory estoppel has no application to this case. The power of judicial review cannot be invoked to protect private interest at the cost of public interest or to decide contractual disputes. We are also informed that the respondent has since re-advertised the plot, and the petitioner neither challenged the fresh advertisement nor participated in the ensuing process. The only surviving right which the petitioner can claim is the refund of EMD. However, we find that there is no contractual clause in the bid document entitling the petitioner to any interest on EMD. If the petitioner claims to have suffered loss, it is free to adopt appropriate civil remedies for such interest claims.

6. Mr. Udeshi's reliance on the decision of this Court in "*Renuka Maternity Child Care and Fertility Clinic v. Managing Director, CIDCO*" (Writ Petition No. 4849 of 2025) is misplaced. The facts in that case were materially different. It is well settled that in exercise of the writ jurisdiction under Article 226 of the Constitution of India, the Court does not ordinarily interfere in contractual matters as tender and contract awards are commercial transactions in which commercial considerations are paramount. As a public authority, the respondent is duty-bound to secure the best possible price and ensure efficient utilization of public resources. This law is well settled by the Hon'ble Supreme Court including recently in *Indore Vikas Praadhikaran (IDA) vs. Shri Humud Jain Samaj Trust*, 2024 SCC Online SC 3511, the relevant portion of which reads as under:

"12. This Court in the case of *State of Jharkhand v. CWE-SOMA Consortium (supra)* while dealing with the similar issue of annulment of tender process, in paras 21, 22 and 23 has held as under:

"21. Observing that while exercising power of judicial review, the Court does not sit as appellate court over

the decision of the Government but merely reviews the manner in which the decision was made, in Tata Cellular v. Union of India [Tata Cellular v. Union of India, (1994) 6 SCC 651], SCC in para 70 it was held as under : (SCC p. 675)

“70. It cannot be denied that the principles of judicial review would apply to the exercise of contractual powers by government bodies in order to prevent arbitrariness or favouritism. However, it must be clearly stated that there are inherent limitations in exercise of that power of judicial review. Government is the guardian of the finances of the State. It is expected to protect the financial interest of the State. The right to refuse the lowest or any other tender is always available to the Government. But, the principles laid down in Article 14 of the Constitution have to be kept in view while accepting or refusing a tender. There can be no question of infringement of Article 14 if the Government tries to get the best person or the best quotation. The right to choose cannot be considered to be an arbitrary power. Of course, if the said power is exercised for any collateral purpose the exercise of that power will be struck down.”

22. *The Government must have freedom of contract. In Master Marine Services (P) Ltd. v. Metcalfe & Hodgkinson (P) Ltd. [Master Marine Services (P) Ltd. v. Metcalfe & Hodgkinson (P) Ltd., (2005) 6 SCC 138], SCC in para 12 this Court held as under : (SCC p. 147)*

“12. After an exhaustive consideration of a large number of decisions and standard books on administrative law, the Court enunciated the principle that the modern trend points to judicial restraint in administrative action. The court does not sit as a court of appeal but merely reviews the manner in which the decision was made. The court does not have the expertise to correct the administrative decision. If a review of the administrative decision is permitted it will be substituting its own decision, without the necessary expertise, which itself may be fallible. The Government must have freedom of contract. In other words, fair play in the joints is a necessary concomitant for an administrative body functioning in an administrative sphere or quasi-administrative sphere.

However, the decision must not only be tested by the application of Wednesbury principles of reasonableness but also must be free from arbitrariness not affected by bias or actuated by mala fides. It was also pointed out that quashing decisions may impose heavy administrative burden on the administration and lead to increased and unbudgeted expenditure. (See para 113 of the Report, SCC para 94.)”

The Court does not have the expertise to correct the administrative decision as held in Laxmikant v. Satyawar [Laxmikant v. Satyawar, (1996) 4 SCC 208], the Government must have freedom of contract.

23. *The right to refuse the lowest or any other tender is always available to the Government. In the case in hand, the respondent has neither pleaded nor established mala fide exercise of power by the appellant. While so, the decision of the Tender Committee ought not to have been interfered with by the High Court. In our considered view, the High Court erred in sitting in appeal over the decision of the appellant to cancel the tender and float a fresh tender. Equally, the High Court was not right in going into the financial implication of a fresh tender.”*

13. *This Court in the aforesaid case has held that while exercising power of judicial review, the Court does not sit as an appellate Court over the decision of the government but merely reviews the manner in which the decision was made [Tata Cellular v. Union of India, (1994) 6 SCC 651]. In the considered opinion of this Court, the Division Bench should not have interfered in the matter and could not have gone to the extent of fixing the base price/modifying the offer made by respondent and, therefore, in light of the aforesaid judgment as the High Court has virtually passed an order sitting in appeal over the decision of the government in absence of any mala fide exercise of power by the IDA, the judgment passed by the Division Bench of the High Court deserves to be set aside and is, accordingly set aside. This Court in the case of Haryana Urban Development Authority v. Orchid Infrastructure Developers Pvt. Ltd. (supra) again dealing with the cancellation of a bid of the highest bidder, in paragraphs 12, 13, 14, 15, 16 and 30 has held as under:*

“12. Firstly, we examine the question whether there being no concluded contract in the absence of acceptance of bid and issuance of allotment letter, the suit could be said to be maintainable for the declaratory relief and mandatory injunction sought by the plaintiff. The plaintiff has prayed for a declaration that rejection of the bid was illegal. Merely by that, the plaintiff could

not have become entitled for consequential mandatory injunction for issuance of formal letter of allotment. The court while exercising judicial review could not have accepted the bid. The bid had never been accepted by the authorities concerned. It was not a case of cancellation of bid after being accepted. Thus, even assuming as per the plaintiff's case that the Administrator was not equipped with the power and the Chief Administrator had the power to accept or refuse the bid, there had been no decision by the Chief Administrator. Thus, merely by declaration that rejection of the bid by the Administrator was illegal, the plaintiff could not have become entitled to consequential relief of issuance of allotment letter. Thus the suit, in the form it was filed, was not maintainable for relief sought in view of the fact that there was no concluded contract in the absence of allotment letter being issued to the plaintiff, which was a sine qua non for filing the civil suit.

13. *It is a settled law that the highest bidder has no vested right to have the auction concluded in his favour. The Government or its authority could validly retain power to accept or reject the highest bid in the interest of public revenue. We are of the considered opinion that there was no right acquired and no vested right accrued in favour of the plaintiff merely because his bid amount was highest and had deposited 10% of the bid amount. As per Regulation 6(2) of the 1978 Regulations, allotment letter has to be issued on acceptance of the bid by the Chief Administrator and within 30 days thereof, the successful bidder has to deposit another 15% of the bid amount. In the instant case, allotment letter has never been issued to the petitioner as per Regulation 6(2) in view of non-acceptance of the bid. Thus, there was no concluded contract. Regulation 6 of the 1978 Regulations is extracted hereunder:*

“6. Sale of lease of land or building by auction.—

- (1) In the case of sale or lease by auction, the price/premium to be charged shall be such reserve price/premium as may be determined taking into consideration the various factors as indicated in sub-regulation (1) of Regulation 4 or any higher amount determined as a result of bidding in open auction.*
- (2) 10 per cent of the highest bid shall be paid on the spot by the highest bidder in cash or by means of a demand draft in the manner specified in sub-regulation (2) of Regulation 5. The successful bidder shall be issued allotment letter in*

Form CC or C-II by registered post and another 15 per cent of the bid accepted shall be payable by the successful bidder, in the manner indicated, within thirty days of the date of allotment letter conveying acceptance of the bid by the Chief Administrator; failing which the 10 per cent amount already deposited shall stand forfeited to the authority and the successful bidder shall have no claim to the land or building auctioned.

- (3) The payment of balance of the price/premium, rate of interest chargeable and the recovery of interest shall be in the same manner as provided in sub-regulations (6) and (7) of Regulation 5.*
 - (4) The general terms and conditions of the auction shall be such as may be framed by the Chief Administrator from time to time and announced to the public before auction on the spot.”*
- 14. We are fortified in our view by a decision of this Court in U.P. Avas Evam Vikas Parishad v. Om Prakash Sharma [U.P. Avas Evam Vikas Parishad v. Om Prakash Sharma, (2013) 5 SCC 182 : (2013) 2 SCC (Civ) 737], wherein the questions arose for its consideration that : whether there is any vested right upon the plaintiff bidder until the bid is accepted by the competent authority in relation to the property in question? Merely because the plaintiff is the highest bidder by depositing 20% of the bid amount without there being approval of the same by the competent authority and it amounts to a concluded contract in relation to the plot in question; and whether the plaintiff could have maintained the suit in the absence of a concluded contract? Considering the aforesaid questions, this Court has discussed the matter thus : (SCC pp. 195-97, paras 30-31)*
- “30. In support of the said proposition, the learned Senior Counsel for the defendant, Mr. Rakesh Dwivedi has also placed reliance upon another decision of this Court in State of U.P. v. Vijay Bahadur Singh [State of U.P. v. Vijay Bahadur Singh, (1982) 2 SCC 365]. The learned Senior Counsel has rightly placed reliance upon the judgment of this Court in Rajasthan Housing Board case [Rajasthan Housing Board v. G.S. Investments, (2007) 1 SCC 477] which reads as under : (SCC p. 483, para 9)*
- ‘9. This being the settled legal position, the respondent acquired no right to claim that the auction be concluded in its favour and the High Court clearly erred in entertaining the writ petition and in not only issuing a direction for*

consideration of the representation but also issuing a further direction to the appellant to issue a demand note of the balance amount. The direction relating to issuance of the demand note for balance amount virtually amounted to confirmation of the auction in favour of the respondent which was not the function of the High Court.'

In State of Orissa v. Harinarayan Jaiswal [State of Orissa v. Harinarayan Jaiswal, (1972) 2 SCC 36] case, relevant paragraph of which reads as under : (SCC pp. 44-45, para 13)

'13. ... There is no concluded contract till the bid is accepted. Before there was a concluded contract, it was open to the bidders to withdraw their bids (see Union of India v. Bhim Sen Walaiti Ram [Union of India v. Bhim Sen Walaiti Ram, (1969) 3 SCC 146]). [Ed. : The matter between two asterisks has been emphasised in Avam Evam Vikas Parishad case, (2013) 5 SCC 182.] By merely giving bids, the bidders had not acquired any vested rights [Ed. : The matter between two asterisks has been emphasised in Avam Evam Vikas Parishad case, (2013) 5 SCC 182.]'.

31. In view of the law laid down by this Court in the aforesaid decisions, the learned Senior Counsel Mr. Rakesh Dwivedi has rightly placed reliance upon the same in support of the case of the first defendant, which would clearly go to show that the plaintiff had not acquired any right and no vested right has been accrued in his favour in respect of the plot in question merely because his bid amount is highest and he had deposited 20% of the highest bid amount along with the earnest money with the Board. In the absence of acceptance of bid offered by the plaintiff to the competent authority of the first defendant, there is no concluded contract in respect of the plot in question, which is evident from letters dated 26-5-1977 and 8-7-1977 wherein the third defendant had rejected the bid amount deposited by the plaintiff and the same was refunded to him by way of demand draft, which is an undisputed fact and it is also not his case that the then Assistant Housing Commissioner who has conducted the public auction had accepted the bid of the plaintiff."

15. This Court in Om Prakash Sharma case [U.P. Avam Evam Vikas Parishad v. Om Prakash Sharma, (2013) 5 SCC 182 : (2013) 2 SCC (Civ) 737] has held that in the absence of a concluded contract which takes place by issuance of allotment letter, suit could not be said to be maintainable as there is no vested right in the plaintiff without approval of the bid by the competent

authority. Thus, in the wake of the aforesaid decision, in the absence of a concluded contract, the suit could not have been decreed for mandatory injunction. It amounted to enforcing of contract in the absence thereof.”

7. In view of the above, there is no merit in this petition. **Writ Petition No.14294 of 2025** is dismissed with a direction to the respondent to refund the petitioner’s EMD (without interest), within a period of two weeks from today.

[GAUTAM A. ANKHAD, J.]

[CHIEF JUSTICE]