

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.14954 OF 2025**

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Electrical Contractors Association
of Maharashtra

.. Petitioner

Vs.

State of Maharashtra & Anr.

.. Respondents

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Ms. Medha Jondhale with Ms. Anand Jondhale, Rajnandini Jondhale and Mr. Harshvardhan Shinde, Advocates for the Petitioner

Mrs. Neha S. Bhide, Government Pleader with Mr. O. A. Chandurkar, Additional Government Pleader and Ms. G. R. Raghuwanshi, AGP for the Respondent Nos.1-State

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

DATE : 3rd NOVEMBER 2025

PER, SHREE CHANDRASHEKHAR, CJ. :

This writ petition has been filed to question e-Tender Notice No.03-Corrigendum (Year 2025-26) dated 25th September 2025.

2. The petitioner is a body of licensed electrical contractors and registered with the Nashik Municipal Corporation. The petitioner-Association claims that its members have been continuously undertaking the municipal electrical works for the last 20 years and there was no complaint against any of them. The petitioner-Association has been carrying out electrical contract works as per the provisions of the Indian Electricity Act 2003 and the Safety Regulations framed thereunder.

3. The grievance of the petitioner-Association is that the respondent-Municipal Corporation has issued e-Tender Notice on

25th September 2025 under which a composite tender has been issued for the civil and electrical works and thereby excluding its participation in the tender process. Ms. Medha Jondhale, the learned counsel for the petitioner-Association refers to the order passed in Writ Petition No.3196 of 2013 by the Aurangabad Bench of this Court and submits that e-Tender Notice dated 25th September 2025 violates the rights of the petitioner-Association under Articles 14, 19(1)(g) and 21 of the Constitution of India. The learned counsel for the petitioner-Association relies on the decision in “*Reliance Energy Ltd. & Another v. Maharashtra State Road Development*” 2007 (8) SCC 1 and submits that e-Tender Notice dated 25th September 2025 violates the doctrine of level playing field as embodied in Article 19(1)(g) of the Constitution of India.

4. In the first place, we intend to record that the scope of judicial review under Article 226 of the Constitution of India is very limited and the decision of the Employer is not interfered by the writ Court on mere showing of some fact or mistake on the part of the Employer. In Writ Petition No.3196 of 2013, a challenge was laid to the Government Resolution dated 27th January 2004 and Government Circular dated 24th March 2011 which pertained to construction of buildings involving civil and electrical works. Whereas, the subject e-Tender Notice dated 25th September 2025 comprises of 18 works and the nature of which has been indicated in the chart at page no.57 of the paper-book. The works under e-Tender are as under:-

Tender ID	Location	Title	Tender Value	Electrical work
2025_NMC_1221768_1	Bardan Phata to Sula	Development of road from, Gangapur Road Bardan Phata to Sula Chowk (linking outer parking to internal	56,85,78,497	5,01,40,114.16

		parking/Trimbak Road link road)		
2025_NMC_1221768_2	Trimbak Road Papaya Nursery signal	Development of Road from, Trimbak Road Papaya Nursery signal to XLO junction (link road from outer parking railway station Trimbak Road Mumbai Highway traffic planning)	77,32,75,343	1,99,17,622.68
2025_NMC_1221768_3	Trimbak Road Mumbai Highway link road	Development of road from, XLO Chowk to Garware Chowk (outer parking railway station Trimbak Road Mumbai Highway link road/traffic planning)	71,98,74,710	21,07,220
2025_NMC_1221768_4	Wadner Gate to Vihitgaon	Development of road from, Wadner Gate to Vihitgaon ((Lam Road) (Railway station-Trimbak Road link/traffic planning)	31,99,99,740	1,71,42,460.20
2025_NMC_1221768_5	Bitco Chowk to Jail Road	Development of road from, Vihitgaon (Lam Road) to Bitco Chowk to Jail Road-upto Godavari River (approach to ghats)	65,50,01,803	3,34,49,123.18
2025_NMC_1221768_6	Nandur Bridge to Jatra Hotel	Development of road from, Nandur Bridge to Jatra Hotel (approach to ghats)	71,20,04,895	1,70,15,643.50
2025_NMC_1221768_7	Shankar Marg Vijay Mamta Chowk	Development of road from, Lekha Nagar, NH 3 Kalanagar Chowk Vadalagaon Ravi shankar marg-Vijay Mamta Chowk (approach to ghats traffic planning)	38,49,75,812	56,98,344.70
2025_NMC_1221768_8	Shankar marg Vijay Mamta Chhowk	Development of road from, Sangam Bridge to Mirchi Hotel Chowk to Amrutdham Chowk to Gunjal Baba Chowk Tarwala Chowk to Market Signal to akhmalabad Road ghat approach Sadhugram connect	83,26,47,509	2,38,28,647
2025_NMC_1221768_9	KTHM College Bridge to Old Gangapur Naka	Development of road from, KTHM College Bridge to Old Gangapur Naka to Sharanpur Police Chowki, Bosh (Mico) circle to Chandak circle to Mahamarg Bus Stand (ghat approach/parking connection)	48,08,09,407	1,63,75,273.58

2025_NMC_1221768_10	Vijay Mata Chowk Takli gaon	Development of road from, Vijay Mamta Chowk Takli gaon Sangam bridge (ghat approach Sadhugram connect)	22,19,87,694	1,00,22,749
2025_NMC_1221768_11	Ashok Stambh to Jehan Circle	Development of road from, Ashok Stambh to Jehan Circle (Gangapur Road) (approach to ghats parking)	37,81,00,039	1,00,02,460.18
2025_NMC_1221768_12	Gangapur Gaon NMC limits	Development of Gangapur road from Jehan Circle to Gangapur Goan NMC limits (parking link road)	49,34,60,348	3,00,22,155.60
2025_NMC_1221768_13	ITI Signal (connects both Nashik and Trimbak	Development of Trimbak road from Khadkali Signal to Taimbak Naka to ITI Signal (connects both Nashik and Trimbak Kumbh Mela sites/parking)	51,05,16,750	1,67,91,666.40
2025_NMC_1221768_14	ITI Signal to Pimpalgaon Bahula	Development of Trimbak Road from ITI Signal to Pimpalgaon Bahula up to NamC limits (connects both Nashik and Trimbak Kumbh sites/parking)	49,28,68,727	44992548.57
2025_NMC_1221768_15	Dindori road from Nimani Chowk	Development of Dindori road from Nimani Chowk to NMC limit (approach to ghats/parking)	59,56,99,465	1,20,82,810
2025_NMC_1221768_17	Datta Mandir Chowk to Sinner Phata	Development of Pune Road from Datta Mandir Chowk to Sinner Phata (railway station link road)	17,74,81,982	34,78,254
2025_NMC_1221768_18	Janardan Swami	Development of road from Janardan Swami Math (Ch.Sambhaji Nagar Road) to Laxminarayan Mandir Bridge to Dream City Chowk (Ghat Approach/Sadhugram Connect)	14,99,85,937	
2025_NMC_1221768_19	Peth road from Canal to Meher	Development of Peth road from Canal to Meher Dham (ghat approach/parking)	76,49,09,273	1,94,40,095

5. All these construction works are related to development of road and not construction of buildings involving civil and electrical work.

Even the portion of electrical works involved thereunder are quite insignificant under the e-Tender Notice dated 25th September 2025. The following observations in “*Reliance Energy Ltd.*” were made by the Hon'ble Supreme Court in the peculiar facts and circumstances of the case:

“36. We find merit in this civil appeal. Standards applied by courts in judicial review must be justified by constitutional principles which govern the proper exercise of public power in a democracy. Article 14 of the Constitution embodies the principle of “non-discrimination”. However, it is not a free-standing provision. It has to be read in conjunction with rights conferred by other articles like Article 21 of the Constitution. The said Article 21 refers to “right to life”. It includes “opportunity”. In our view, as held in the latest judgment of the Constitution Bench of nine Judges in I.R. Coelho v. State of T.N. [(2007) 2 SCC 1] , Articles 21/14 are the heart of the chapter on fundamental rights. They cover various aspects of life. “Level playing field” is an important concept while construing Article 19(1)(g) of the Constitution. It is this doctrine which is invoked by REL/HDEC in the present case. When Article 19(1)(g) confers fundamental right to carry on business to a company, it is entitled to invoke the said doctrine of “level playing field”. We may clarify that this doctrine is, however, subject to public interest. In the world of globalisation, competition is an important factor to be kept in mind. The doctrine of “level playing field” is an important doctrine which is embodied in Article 19(1)(g) of the Constitution. This is because the said doctrine provides space within which equally placed competitors are allowed to bid so as to subserve the larger public interest. “Globalisation”, in essence, is liberalisation of trade. Today India has dismantled licence raj. The economic reforms introduced after 1992 have brought in the concept of “globalisation”. Decisions or acts which result in unequal and discriminatory treatment, would violate the doctrine of “level playing field” embodied in Article 19(1)(g). Time has come, therefore, to say that Article 14 which refers to the principle of “equality” should not be read as a stand alone item but it should be read in conjunction with Article 21 which embodies several aspects of life. There is one more aspect which needs to be mentioned in the matter of implementation of the aforesaid doctrine of “level playing field”. According to Lord Goldsmith, commitment to the “rule of law” is the heart of parliamentary democracy. One of the important elements of the “rule of law” is legal certainty. Article 14 applies to government policies and if the policy or act of the Government, even

in contractual matters, fails to satisfy the test of “reasonableness”, then such an act or decision would be unconstitutional.”

6. In that case, the ‘*Reliance Energy Ltd.*’ was excluded from the tendering process only on the ground that its financial statement pertained to the period ending on 31st March and the financial statement for the HDEC, Korea which was the consortium partner ended on 31st December. The basis for the financial evaluation of the consortium was that : -

“7.4 Basis of evaluation

The information to be provided by the applicant must be in conformation with the following:

- The information provided by the applicant should be based on the latest available audited accounting statements.*
- The latest audited accounting statements should not be dated earlier than 31st December, 2002.*
- The request for qualification (RFQ) must be accompanied by the last three audited annual reports/accounts statements of the applicant and should include the financial statements of all subsidiary companies of the applicant for the last three financial years. In case of a consortium audited annual reports/accounts statements of each member of the consortium for the last three financial years should be provided and should include the financial statement of all subsidiary companies of the entities forming the consortium.*
- The applicant (all members of consortium) must submit information on all pending litigations or proceeding regarding liquidation, winding up, court receivership or other similar proceedings that should have been initiated or pending against the applicant (or any member of consortium). In addition to the above, information must also be provided of all pending litigations against the applicant (or any member of consortium) in which the maximum value of liability that may arise in the event of adverse judgment exceeds Rs 100 million (or equivalent foreign currency). A consistent history of*

litigation/arbitration awards against the applicant or any member of the consortium.”

7. In the context of the requirement under clause 7.2.2 whereby the bidder was required to provide financial statements for three financial years subject to the condition that the latest financial statement should not be earlier than the financial year ending on 31st December 2002, the Hon'ble Supreme Court observed that the concept of level playing field which provides equal opportunity to all should be applied in tender matters. The Hon'ble Supreme Court further observed that the doctrine of level playing field should be employed having regard to public interest. While laying a challenge to e-Tender Notice dated 25th September 2025, the petitioner-Association has failed to indicate how the floating of the works under e-Tender Notice dated 25th September 2025 shall be against the public interest. The petitioner-Association cannot claim an absolute right to get works under e-Tender. The only right that a tenderer can have is that he is treated equally. There is no violation of the equality clause under Article 14 of the Constitution of India if the Employer has decided to float a composite e-Tender like the present one. Such decision of the Employer which is based on several considerations and is a commercial decision should not be interfered by the writ Court except where the Constitutional mandate is violated.

8. For the aforesaid reasons, Writ Petition No.14954 of 2025 is dismissed.

[GAUTAM A. ANKHAD, J.]

[CHIEF JUSTICE]