IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.1366/2025

(Ganesh Omprakash Agrawal and another Vs. Maharashtra Industrial Development Corporation Limited and another)

Office Notes, Office Memoranda of Coram, appearances, Court's orders of directions and Registrar's orders	Court's or Judge's orders

Mr. M.M. Sudame, Senior Advocate a/b. Mr. I.A. Fidvi, Advocate for the petitioners.
Mr. J.B. Kasat, Advocate for respondent No.1.
Mr. A.S. Shukla, Advocate for respondent No.2.

CORAM: ANIL S. KILOR & MRS.VRUSHALI V. JOSHI, JJ.
DATED: 30.07.2025.

Heard.

2. A short question is involved in the present writ petition namely whether a condition to submit 'net worth certificate' is applicable to the proposed private limited company and whether for non-submission of such certificate by the proposed private company the bid can be rejected.

3. In the present writ petition the petitioner No.1 is the promoter and the petitioner No.2 is the company who have approached this Court under Article 226 of the Constitution of India raising a challenge to the rejection of their bid vide order dated 18.2.2025 by the Deputy Chief Executive Officer, M.I.D.C., Mumbai on the ground that the petitioner No.2 company has not submitted 'net worth certificate' along with tender document.

4. It is the case of the petitioners that they are dealing in business of producing Agrochemical and Fertilizers for Industrial use and they were in search of an industrial plot. The respondent M.I.D.C. issued an advertisement for sale of industrial plots and on finding that there

is a plot suitable for the petitioners, which will meet the requirements of the petitioners, the petitioners submitted the tender for purchase of plot No.SZ-10. As per the tender document proposed private limited company is permitted to participate in the tender.

5. The name of the petitioner No.2 company was approved on 6.1.2025 and it was registered on 22.1.2025.

6. According to the petitioners, they submitted 'net worth certificate' of the promoter of the proposed company as there was no 'net worth certificate' of the proposed company. The 'net worth certificate' filed by the petitioners was not considered as it was not of the proposed company and on the said ground the technical bid of the petitioners came to be rejected.

7. A net worth certificate is a financial document offering a comprehensive overview of an individual's or company's financial status analyzing the books of accounts and other records, this certificate outlines all assets and liabilities. The Chartered Accountant issues such certificate on scrutiny of the books of accounts, records and documents. Thus, it is impossible for any proposed company to get net worth certificate. It is settled position of law that a party cannot be required to perform an act that is inherently impossible to achieve.

8. In that view of the matter, as it is an admitted position that on the date when the tender was submitted by the petitioner No.2 it was a proposed private limited company, we are of the opinion that such condition will not apply to the proposed company like the petitioner No.2 and, therefore, the rejection of the technical bid of the petitioners is illegal and not sustainable in the eye of law.

9. Mr. Kasat, learned Advocate for M.I.D.C. tried to supplement the additional grounds which cannot be taken into consideration in view of the judgment of *Mahendra Singh Gill and another V/s. The Chief Election Commissioner, New Delhi and others* *reported in* ***AIR 1978 SC*** **851** and accordingly, such argument is rejected.

10. Mr. Kasat, learned Advocate for the respondent M.I.D.C. further argued that tender was cancelled and it was intimated to the petitioners.

11. Learned Senior Advocate for the petitioners points out that the reason for cancellation of bid is the condition mentioned in clause 4(a) of the tender document which shows that plot for which 2 or more bids are received within 15 days, Technical Envelope-A will be opened and if two or more bids are technically qualified, only then the Financial Envelopes-B will be opened and the application of the Bidder with the highest rate (H-1) will be processed for allotment of plot.

12. It is argued that since after the rejection of technical bid of the petitioners the qualified bidder was only one in view of clause 4(a) the tender was cancelled. Mr. Kasat, learned Advocate for the respondent M.I.D.C., however, submits that he does not have instructions on what ground the tender was cancelled.

13. The Hon'ble Supreme Court in the case of *Chairman-cum-Managing Director, Coal India Limited and others V/s. Ananta Saha and others* reported in **(2011) 5 SCC 142** in paragraphs 32 and 33 has observed as under:-

> *"32. It is a settled legal proposition that if initial action is not in consonance with law, subsequent proceedings would not sanctify the same. In such a fact*

> *situation, the legal maxim "sublato fundamento cadit opus" is applicable, meaning thereby, in case a foundation is removed, the superstructure falls.*
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> *33. In Badrinath v. Govt. of T.N. this Court observed that once the basis of a proceeding is gone, all consequential acts, actions, orders would fall to the ground automatically and this principle of consequential order which is applicable to judicial and quasi-judicial proceedings is equally applicable to administrative orders. (See also State of Kerala v. Puthenkavu N.S.S. Karayogam and Kalabharati Advertising v. Hemant Vimalnath Narichania).*

14. In light of the above referred well settled principles of law and having held that the disqualification of the petitioners is illegal, we are of the opinion that the present writ petition needs to be allowed. Accordingly, writ petition is allowed.

15. The impugned communication issued to the petitioners dated 18.2.2025 by the Deputy Chief Executive Officer, M.I.D.C., Mumbai is hereby quashed and set aside.

16. We further direct the respondent No.1 to take a fresh decision about the cancellation of the tender process in view of the fact that now there would be two qualified bidders in view of clause 4(a) of the tender process.

(MRS.VRUSHALI V.JOSHI, J.) (ANIL S. KILOR, J.)

Tambaskar.