

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD.

WRIT PETITION NO.5324 OF 2026

M/s. I.M.S. Bhatia Transport Contractor

... Petitioner

Versus

The State of Maharashtra

Through its Principal Secretary and Others

.. Respondents

.....

Shri. R. N. Dhorde, Senior Advocate i/by. Shri. R. L. Kute,
Advocate for the Petitioner

Shri. A. B. Girase, Government Pleader for the State.

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CORAM : SIDDHESHWAR S. THOMBRE, J.
(Vacation Court)

DATED : 19th MAY, 2026

PER COURT : -

. Heard Shri. R. N. Dhorde, learned Senior Advocate for the
Petitioner and Shri. A. B. Girase, learned Government Pleader for the
State.

2. Issue notice to the Respondents, returnable on 22.06.2026. The
learned Government Pleader waives service of notice on behalf of
Respondent Nos.1 to 5.

3. The learned Senior Advocate Shri. R. N. Dhorde invited my
attention to the conditions of the tender as well as the chart at Page
No.734 of the Petition. He submits that, since last 12 years, the very

same contractors are awarded the tenders and, with a view to ensure that such contractors alone continue to secure the contracts, restrictive and tailor-made conditions have been incorporated in the tender. He further submits that, similar conditions were incorporated in the relevant Government Resolution, pursuant to which the tenders were floated. He further invited my attention to the copy of the tender which was issued for 40 districts, and, in particular, to the chart at page No.734 of the Petition, which according to him, clearly demonstrates that the contracts have been allotted to the same set of contractors for a period ranging from 5 to 12 years. He submits that, a bare perusal of the tender conditions indicates that the conditions are incorporated with a view that only the existing contractors, who were earlier awarded contracts, would be eligible to participate, thereby effectively excluding new contractors from the tender process.

3.1. The learned Senior Advocate relied upon the law laid down by the Hon'ble Apex Court in the matter of **Vinishma Technologies Pvt Ltd vs. State of Chhattisgarh**, reported in **AIR ONLINE 2025 SC 939**, and in the matter of **Mahesh Varma and Anr vs. State of Maharashtra and Ors**, reported in **2008 (6) AIR BOM R 692**. He also relied upon the Judgment of this Court in **Writ Petition No.3359 of 2016, Shriram Mahila Bachat Gat and Others vs. The Union of India and Others** with connected petitions decided on 11.07.2016. He submits that, the

existing contractors, who were earlier awarded tenders/contracts, have formed a cartel and monopolized the tender process for several years. According to him, if restrictive conditions are permitted to continue, it would be virtually impossible for other contractors to participate in the tender process. He, therefore, submits that, considering the factual backdrop and the apparent arbitrariness in the tender conditions, interim protection be granted to the Petitioner by staying the further tender process.

4. Per contra, the learned Government Pleader Shri. A. B. Girase vehemently opposed the grant of interim relief to the Petitioner. He submits that, insofar as the challenge to the Government Resolution is concerned, the same is already subject matter of challenge in Writ Petition No.5296 of 2026, wherein this Court (Vacation Court), by order dated 12th May, 2026, issued notice and directed that further tender proceedings shall be subject to the final outcome of the writ petition. He further invited my attention to the order dated 28.06.2021 passed by Co-ordinate Bench of this Court in Writ Petition No.750/2021 along with connected matters involving a similar challenge, wherein this Court had considered grounds identical to those raised in the present Petition and dismissed the same. The said dismissal was confirmed by the Hon'ble Apex Court by order dated 12.07.2021 passed in Special Leave to Appeal (C) No.8682/2021. He tenders across the bar copy of the said order

dated 12.07.2021 passed by the Hon'ble Apex Court.

5. I have heard the learned Senior Advocate for the Petitioner and the learned Government Pleader for the State at length. I have also gone through the tender conditions as well as the chart at Page No.734 of the Petition. After going through the same, it appears that, for a period ranging from 5 to 12 years, the tenders have been awarded to the same contractors and considering the conditions in the tender, it clearly reveals that, the eligibility conditions have been incorporated in such a manner so as to favour the existing contractors and exclude other contractors from participation in the tender process.

6. It is trite that, in matters relating to public contracts and government tenders, the process must be transparent, fair, non-discriminatory, and conducive to healthy competition. Every participant genuinely capable of participating in the tender process ought to be afforded a fair and reasonable opportunity to compete. The material placed on record indicates that, for more than last 12 years, the existing contractors have created a cartel, and for that reason, the same contractors have been awarded the tenders.

7. In view of the above, I find that, the Petitioner has made out *prima facie* case to grant interim relief. Hence, till the next date i.e.

22.06.2026, the Respondent – Authorities may proceed with the tender process, however, no work orders shall be issued in all the districts pursuant to the impugned tender process.

[SIDDHESHWAR S. THOMBRE]
JUDGE

GGP