

IN THE JUDICATURE OF HIGH COURT AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.7053 OF 2024

Rajkumar Bhimrao Mane
Age: 40 years, Occu.: Agri.,
R/o. Palashi, Tal. Pandharpur,
District Solapur.

.. Petitioner

Versus

1. The State of Maharashtra
2. Maharashtra State Road Transport Corporation
Office – Dr. Anandrao Nair Marg,
Dalal Estate, Mumbai Central,
Mumbai, Maharashtra 400 008.
3. Through General Manager (Transport)
Maharashtra State Road Transport Corporation,
Office – Dr. Anandrao Nair Marg,
Dalal Estate, Mumbai Central,
Mumbai, Maharashtra 400 008.
4. Deputy General Manager,
State Transport Control Committee No.1,
Office – Kirod Road, Kurla (w),
Mumbai-86.
5. Public Relation Officer,
Maharashtra State Transport,
Office – Dr. Anandrao Nair Marg,
Dalal Estate, Mumbai Central,
Mumbai, Maharashtra 400 008.
6. Maharashtra State Transport Corporation
Division Office – Budhwar Peth,
Solapur, Through Divisional Controller,
7. Manager,
Maharashtra State Transport Corporation,
Pandharpur Division, Pandharpur.
8. Division Controller,
Maharashtra State Transport Corporation,
Solapur, Division – Commercial
Establishment.

.. Respondents

...

Mr. Sachinkumar Rajepandhare, Advocate a/w Mr. Vishwajit V. Nalawade,
Advocate for the petitioner.

Mr. S. B. Kalel, AGP for respondents/State.

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**CORAM : SMT. VIBHA KANKANWADI &
NANDESH S. DESHPANDE, JJ.**

DATE : 09 JUNE 2026

ORDER (Per Smt. Vibha Kankanwadi, J.) :-

. Present petition has been filed for following reliefs :-

A. This Hon'ble Court be pleased to issue a writ of Mandamus or a writ in nature of Mandamus or any other appropriate writ, directing the respondent to complete the process of allotment by accepting three month rent in advance i.e. Rs.1,98,999/- as security deposit.

B. This Hon'ble Court be pleased to quash and set aside Condition No.1 of acceptance letter dated 30.08.201 directing the petitioner to pay exorbitant amount of Rs.7,95,996/- towards security deposit.

C. This Hon'ble Court be pleased to quash and set aside Order dated 10.05.2022 renewing Old Parking tender which was for passengers of Old Bus Stand thereby extending it to passengers of New Bus Stand."

2. The petitioner has come with the case that respondent No.2 had issued open online tender notice bearing Tender Notice No.1 of 2019 in

respect of commercial bid for licensing of various businesses in the bus stands in the Maharashtra. Respondent No.2 had shown 2000 square feet open space for running a Two Wheeler parking at Pandharpur New Bus Stand. It was stated in the tender that earnest amount of Rs.2,88,000/- should be deposited and the expected licence fee was shown to be Rs.24,000/- per month. The petitioner filled the tender form quoting licence fees of Rs.66,333/- per month and paid earnest amount of Rs.2,88,000/- while submitting his tender papers. He being the highest bidder was selected and the acceptance letter was given on 30.08.2019 by respondent No.6, however, in the said letter, an unreasonable and impossible condition directing the petitioner to deposit amount of Rs.7,95,996/- as security deposit and three months' rent in advance amounting to Rs.1,98,999/- was put. Petitioner had written a letter to respondent No.6 stating that he has already deposited earnest amount of Rs.2,88,000/- and the amount that was quoted as security deposit was not included in the tender. In reply, respondent No. 6 gave another letter dated 20.01.2020 informing the petitioner that the platform work of the New Bus Stand was under completion and that, after completion of the said work, the petitioner would be informed about running the establishment. However, the petitioner had directed to deposit the earnest amount and get the agreement registered. The petitioner wrote a

request letter to register the agreement. Respondent No.6 gave notice dated 25.11.2020 refusing the request of the petitioner to reduce the amount and directing him to deposit the exorbitant amount as specified in the earlier letter. Thereafter, respondent No.6 has given illegally renewal of old parking tender to the third party. Respondent No.7 closed old bus stand by notice dated 17.07.2023, thereby the entire process has been stalled and hence, the present petition.

3. Heard learned Advocate Mr. Sachinkumar Rajepandhare for the petitioner and learned AGP for the respondent/State. It is not even necessary to issue notice to respondent Nos.2 to 8.

4. In order to cut short it can be said that the learned Advocate for the petitioner has vehemently submitted the submissions in support of the contentions and has relied on the E-tender and other communications which were exchanged between the petitioner and respondent Nos.6 and 7. It has been submitted that when the petitioner was asked to deposit the security amount, which was not forming the part of the tender, respondent No.6 deviated from the terms. The petitioner was then entitled to get the tender work or work order issued in his favour, as he was the highest bidder.

5. At the outset, we would like to say that if the petitioner is of the

view that there was a concluded contract between him and respondent Nos.2 to 8, then he has alternate remedy of getting the specific performance of contract and if he is of the opinion that the terms of the tender have been deviated, then he may treat the contract has been breached and may then file a suit for compensation. In respect of tender, we would like to rely on the observations from the decision by the Hon'ble Supreme Court in **M/s. N.G. Projects Limited Vs. M/s. Vinod Kumar Jain and others, (2022) 6 SCC 127**, in which the earlier decisions have been taken note of and it has been observed that :-

“23. In view of the above judgments of this Court, the Writ Court should refrain itself from imposing its decision over the decision of the employer as to whether or not to accept the bid of a tenderer. The court does not have the expertise to examine the terms and conditions of the present-day economic activities of the State and this limitation should be kept in view. Courts should be even more reluctant in interfering with contracts involving technical issues as there is a requirement of the necessary expertise to adjudicate upon such issues. The approach of the Court should be not to find fault with magnifying glass in its hands, rather the Court should examine as to whether the decision-making process is after complying with the procedure contemplated by the tender conditions. If the Court finds that there is total arbitrariness or that the tender has been granted in a *mala fide* manner, still the Court should refrain from interfering in the grant of tender but instead relegate the parties to seek

damages for the wrongful exclusion rather than to injunct the execution of the contract. The injunction or interference in the tender leads to additional costs on the state and is also against public interest. Therefore, the State and its citizens suffer twice, firstly by paying escalation costs and secondly, by being deprived of the infrastructure for which they present-day Governments are expected to work.”

6. We are aware of the decision in **Jagdish Mandal Vs. State of Orissa, (2007) 14 SCC 517**, wherein Hon’ble Supreme Court has held that :-

“22. Judicial review of administrative action is intended to prevent arbitrariness, irrationality; unreasonableness, bias and mala fides. Its purpose is to check whether choice or decision is made “lawfully” and not to check whether choice or decision is “sound”. When the power of judicial review is invoked in matters relating to tenders or award of contracts, certain special features should be borne in mind. A contract is a commercial transaction. Evaluating tenders and awarding contracts are essentially commercial functions. Principles of equity and natural justice stay at a distance. If the decision relating to award of contract is bona fide and is in public interest, courts will not, in exercise of power of judicial review, interfere even if a procedural aberration or error in assessment or prejudice to a tenderer, is made out. The power of judicial review will not be permitted to be invoked to protect private interest at the cost of public interest, or to decide contractual disputes. The tenderer or contractor with a grievance can always seek damages in a civil Court. Attempts by unsuccessful tenderers with imaginary grievances,

wounded pride and business rivalry, to make mountains out of molehills of some technical/procedural violation or some prejudice to self, and persuade courts to interfere by exercising power of judicial review, should be resisted. Such interferences, either interim or final, may hold up public works for years, or delay relief and succour to thousands and millions and may increase the project cost manifold. Therefore, a Court before interfering in tender or contractual matters in exercise of power of judicial review, should pose to itself the following questions :

(i) Whether the process adopted or decision made by the authority is mala fide or intended to favour someone;

or

Whether the process adopted or decision made is so arbitrary and irrational that the court can say: “the decision is such that no responsible authority acting reasonably and in accordance with relevant law could have reached”;

(ii) Whether public interest is affected.

If the answers are in the negative, there should be no interference under Article 226. Cases involving blacklisting or imposition of penal consequences on a tenderer/contractor or distribution of State largesse (allotment of sites/shops, grant of licences, dealerships and franchises) stand on a different footing as they may require a higher degree of fairness in action.”

7. Thus, taking into consideration the facts and the law, when an alternate efficacious remedy was available, the petitioner cannot seek completion of the process of allotment of the work to him from the

respondents by invoking the writ jurisdiction of this Court under Article 226 of the Constitution of India. When this fact was expressed, learned Advocate for the petitioner has also made a request that the respondents be directed to refund the earnest amount, which the petitioner has deposited to the respondent Nos.2 to 8. Again at the cost of repetition, we would say that in the suit of specific performance of contract, the petitioner could have asked for the refund of the amount, which he has paid as an alternative prayer. Therefore, none of the prayers can be considered under Article 226 of the Constitution of India.

8. Hence, the writ petition stands **dismissed**.

[NANDESH S. DESHPANDE]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

scm