IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.8658 OF 2025

Garware Technical Fibres Ltd. through Its Authorised Signatory & Anr. ...Petitioners

Versus

City & Industrial Development Corporation of Maharashtra Ltd. & Anr. ...Respondents

Mr. Ashish Kamat, Senior Advocate a/w Mr. Rohan Kelkar, Mr. Tushar Nagar, Ms. Purvi Shrivastava, Ms. Reet Nagpal i/by J. Sagar & Associates for the Petitioner.
Mr. Chetan Kapadia, Senior Advocate a/w Mr. Yuvraj Singh, Mr. Rahul Sinha, Mr. Soham Bhalerao, Mr. Harshit Tyagi i/b DSK Legal for Respondent No.1 -CIDCO.
Mr. Vipul Dada Patil a/w Mr. Vedant Patil, Ms. Shubha Shirsat i/by Mr. Anil Patil for Respondent No.2.

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

DATE : 11th FEBRUARY 2026.

P.C.:

Aggrieved by the decision of the tendering authority to award the work under Notice Inviting Bid (in short “NIB”) dated 8th April 2025 published by the City & Industrial Development Corporation of Maharashtra Limited (in short “CIDCO”) to Rhoda Cognax Private Limited (in short, "respondent no.2-Company") which was declared L-1 bidder, the petitioner-Company has filed this Writ Petition invoking the jurisdiction of this Court under Article 226 of the Constitution of India.

2. The facts in this case are not in dispute and the only issue for consideration is whether the tendering authority

has jurisdiction to revisit its decision taken in the meeting of Bid Evaluation Committee held on 13th June 2025. The Committee evaluated technical qualifications of the bidders and found that three bidders, namely, M/s Jai Bharat Constructions, M/s J.M. Mhatre Infra Private Limited and M/s Rhoda Cognax Private Limited had failed to meet the mandatory eligibility criteria. It was found upon scrutiny of the documents uploaded by respondent no.2-Company that it did not upload the Memorandum of Understanding (in short "MOU") with the technology/ system provider.

3. It is stated that on 23rd May 2025, the authorized representative of the respondent no.2-Company was required to attend the office for verification of the uploaded documents with the originals. The Bid Evaluation Committee has recorded that the respondent no.2-Company did not provide a notarized copy of MOU with technology/system provider, though a performance certificate issued by IIT Mandi was uploaded. The respondent no.2-Company was asked to produce original documents but it failed to produce the original performance certificate issued by IIT Mandi. However, it was stated before the Bid Evaluation Committee that a separate mail was sent to IIT Mandi on 23rd May 2025 for confirmation of the certificates issued to M/s Intiot Services Private Limited which is the technology provider to the respondent no.2-Company. However, no response was received till that time. The Bid Evaluation Committee therefore took a decision that M/s Jai Bharat Constructions, M/s J.M. Mhatre Infra

Private Limited and M/s Rhoda Cognax Private Limited were not fulfilling the mandatory eligibility criteria. The recommendation of the Bid Evaluation Committee was as follows :

> "*The Bid Evaluation Committee after detailed deliberation on above mentioned facts recommended for opening of financial bids of following 02 (Two) Eligible bidders:*
> *1. M/s Garware Technical Fibres Ltd.*
> *2. M/s Maccaferri Infrastructure Private Limited.*"

4. Soon thereafter, the Bid Evaluation Committee convened a meeting on 17th June 2025 and considered the representation of respondent no.2-Company. On that day, a decision was taken by the Bid Evaluation Committee that the respondent no.2 also fulfills the mandatory eligibility criteria and it was permitted to participate in the financial bidding. The decision taken by the Bid Evaluation Committee on 17th June 2025 is reproduced hereinbelow:

> "*After going through the above mentioned facts and after detailed deliberation, for maintaining transparency and more participants in bidding process for competition. Bid Committee recommend to open the financial bid of the following three bidders :*
> *1. M/s Garware Technical Fibres Ltd.*
> *2 M/s Maccaferri Infrastructure Private Limited*
> *3. M/s Rhoda Cognax Private Limited*"

5. Mr. Ashish Kamat, the learned senior counsel for the petitioner-Company submits that the respondent no.1-CIDCO without an express power vested in it could not have reviewed the decision taken on 13th June 2025 and permitted the respondent no.2-Company to participate in the financial bid.

6. On the other hand, Mr. Chetan Kapadia, the learned senior counsel for the respondent no.1- CIDCO submits that the CIDCO exercised its power to ensure wider participation in the bidding process, which is in the interest of the Corporation. The learned senior counsel referred to the communication dated 14th June 2025 and submitted that being satisfied with the eligibility of the respondent no.2-Company, a decision was taken to permit the said entity to participate in the financial bidding. The learned senior advocate further submitted that all along the petitioner-Company did not raise any objection before the financial bid was opened and participated in the financial bidding and, therefore, the petitioner-Company cannot be permitted to raise an objection to the qualification of the respondent no.2-Company after it failed in the financial bidding.

7. Mr. Vipul Patil, learned counsel for respondent no.2-Company adopted the stand taken by the respondent no.1-CIDCO and submitted that the tendering authority has sufficient powers to review its own decision and approve the Technical Bid Evaluation Report. The learned counsel refers to Clause 4.7.3 of the e-Tendering Manual, which is extracted hereinbelow:

> "*4.7.3 Responsibilities of the Technical Committee:*
> *Pre-RFP Release*
>
> *Guidance on Technical Specifications in alignment with Functional Scope of the Project*
>
> *Help finalize the RFP/ Tender Document*
>
> *RFP Release*

Review and approval of Pre-bid Query Responses and; Corrigendum and Addendum to RFP/Tender Document; if any, that are published after release of RFP.
Bid Management

Bid Management
Review and approval of Technical Bid Evaluation Report."

8. We have perused the records and heard the learned senior counsels for the parties.

9. In the NIB dated 8th April 2025, mandatory eligibility criteria are provided as under :

"***MANDATORY ELIGIBILITY CRITERIA***
1) For qualification, "On-Line" submission shall be accompanied by attested copies of

i) Registration in appropriate class & category.

ii) The Bidders who are not registered with the Central Government or State Government of Maharashtra & it's undertakings in the appropriate class & category but are fulfilling mandatory eligibility criteria as per NIB, can participate in the bidding process subject to condition that the successful bidder will have to apply and obtain registration in CIDCO in appropriate class & category within three (03) months time period from the date of award of work. If the successful bidder fails to do so, his EMD will be forfeited.

iii) The Bidder should upload notarized Agreement with manufacture & Technology / System Provider stating that manufacturer shall supply all required materials for execution of subject work & Technology/System Provider shall provide technical support to execute the work as per Bid terms, conditions and specifications for Rock Fall Mitigation / Protection of Hill for main agency.

iv) After opening of technical bid and before opening of financial bid, bidder should arrange site visits to the works executed by them as shown in qualifying criteria to CIDCO officials at his own cost.
v) Valid Goods & Service Tax (GST) Registration Certificate / GST No.

vi) If the bidder is not required to be registered under GST Act, the declaration to this effect in the form of an affidavit on Rs. 500 Stamp Paper duly notarized is to be submitted justifying with reasons as to why the GST registration is not applicable to them.

> *vii) Valid Solvency Certificate of minimum of ₹ **150.0 Lakhs** issued within twelve (12) months before Bid Submission End Date as per bidding programme.*
>
> *viii) Income Tax Permanent Account Number.*
>
> *ix) List of on-going works and works in hand.*"

10. The scope of work was for the balance work of Rockfall Mitigation for Hill in R & R Pocket No.3, Pushpak Node, Navi Mumbai. The petitioner-Company was the successful contractor for that work and it claims that it has successfully executed the work under the previous contract. The bidder is required to provide the Test certificates from independent Laboratories/independent third party agencies establishing that the system performance meets the requirements. In contractual matters, the powers of the judicial review are limited. However, the writ Court exercising powers under Article 226 of the Constitution of India is entitled to examine the decision making process. In a case where it is found that the decision taken by the tendering authority is arbitrary, irrational or actuated with malice in law, the writ Court shall definitely interfere in the matter.

11. In "*Jagdish Mandal V. State of Orissa*"[1], the Hon'ble Supreme Court held as under :

> "*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*

1 (2007) 14 SCC 517

> *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.*"

12. On a glance at the bid document, we do not gather any provision whereunder the Bid Evaluation Committee could have revisited the decision taken on 13th May 2025. The purported exercise of powers in the interest of the respondent no.1-CIDCO so as to ensure wider participation and procure better price cannot be a ground to revisit its

decision and permit a bidder to participate in the financial bidding, which was previously held ineligible.

13. This is necessary in public interest that the tendering authority acts on the basis of and within the confines of the conditions under the bid document. It is also necessary and required of a public body like respondent no.1-CIDCO that its decision must demonstrate fairness in action. The procedure adopted by the Bid Evaluation Committee was arbitrary and without jurisdiction. Such exercise of the powers shall bring uncertainty and arbitrariness in the bidding and bid evaluation process. We, therefore, hold that the decision taken by the respondent no.1-CIDCO to permit the respondent no.2-Company to participate in the financial bidding is bad in law and such action of respondent no.1-CIDCO is set aside.

14. Writ Petition No.8658 of 2025 is allowed to the above extent.

[GAUTAM A. ANKHAD, J.] **[CHIEF JUSTICE]**