

JVS.

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**WRIT PETITION NO. 1189 OF 2026
WITH
INTERIM APPLICATION NO. 899 OF 2026**

M/s. Dhingra Brothers & Anr.	}	Petitioners
Versus		
The State of Maharashtra & Anr.	}	Respondents

Mr. Aditya Grovar with Mr. Vinod Sangvikar and Mr. Shubham Sonawale, Advocates for the Petitioners.

Ms. Neha S. Bhide, Government Pleader with Ms. Shruti D. Vyas, Additional Government Pleader and Mr. S. P. Kamble, AGP, Advocates for Respondent no.1-State.

Mr. Rakesh L. Singh i/b. M. V. Kini & Co. for Respondent No. 2.

**WITH
WRIT PETITION NO. 1356 OF 2026**

Automark Industries (India) Pvt. Ltd. & Anr.	}	Petitioners
Versus		
The State of Maharashtra & Anr.	}	Respondents

Ms. Lalita Phadke with Mr. Vinod Sangvikar, Advocates for the Petitioner.

Ms. Neha S. Bhide, Government Pleader with Mr. B. V. Samant, Additional Government Pleader and Ms. Apurva Thipse, 'B' Panel Counsel for Respondent No.1.

Mr. Rakesh L. Singh i/b. M. V. Kini & Co. for Respondent No. 2.

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

DATE: 2nd FEBRUARY 2026

P.C.:

In Writ Petition No. 1189 of 2026, the following prayers have been made by the petitioners of which the petitioner no. 1 is a partnership firm :-

“(a) Issue a writ of certiorari or any other appropriate writ, order or direction, quashing and setting aside the impugned tender conditions dated 31.12.2025 in all 11 tenders, particularly the pre-qualification conditions including PQC-14, PQC-15 and PQC-17, issued by the Respondent No. 2 for “providing road safety measures by providing various suitable materials/amenities”, as being arbitrary, discriminatory, and violative of the Constitution of India;

(b) Issue a writ of mandamus or any other appropriate writ, order or direction, directing the Respondent No. 2 to reframe, modify or delete the impugned pre-qualification and eligibility conditions in all 11 tenders so as to ensure a fair, transparent, non-discriminatory and competition-friendly tender process, strictly in accordance with IRC, BIS, MoRTH and CVC guidelines;

(c) Pending the hearing and final disposal of the present writ petition, stay the operation and implementation of the impugned tender conditions in all 11 tenders dated 31.12.2025, extend the date of tender submission and restrain the Respondent No. 2 from proceeding further with the bid evaluation, opening of financial bids, or award of contract pursuant thereto.”

2. The learned counsel for the petitioners states that the pre-bid conditions of NABL-accredited inhouse-Laboratory with scope of accreditation for testing thermoplastic, ready mixed road marking paint [kerb paint having ISI mark as per IS 164 (grade 1 & 2)], cold plastic covering the test methods mentioned in MoRTH, IS164, IRC 35, AASHTO, BS 3262-1 are not at all required. The corrigendum issued pursuant to the pre-bid meeting held on 6th January 2026 to the effect that the manufacturer should have NABL-accredited Laboratory with scope of accreditation for testing thermoplastic, kerb paint, cold plastic covering the test methods mentioned in MoRTH, IS 164, IRC 35, AASHTO and BS 3262-1 is a moonshine and does not make any changes in the original pre-bid conditions.

3. In Writ Petition No. 1356 of 2026 filed by Automark Industries (India) Pvt. Ltd. and its Joint Managing Director, a similar argument has been raised by Ms. Lalita Phadke, the learned counsel for the petitioners. According to the petitioners in these writ petitions, the pre-bid condition has been framed in such a manner to favour a bidder, namely, M/s. Kataline and the entire bid process has been vitiated for that reason.

4. A notice inviting tender was issued by the Maharashtra State Infrastructure Development Corporation Ltd. on 31st December 2025 and the bidders were permitted to download the documents till 17:00 hours on 14th January 2026. A pre-bid meeting was scheduled on 6th January 2026 and a common set of deviation/clarification/decision/addendum of the department was published on 17th January 2026.

5. Just to indicate, Writ Petition No.1189 of 2026 was filed on 12th January 2026 and Writ Petition No. 1356 of 2026 also seems to have been filed on the same date. A pre-bid meeting is convened by the Employer to examine the grievances raised on behalf of the proposed bidders. This is the discretion of the Employer to accept or decline any grievance or objection raised on behalf of the bidders. The framing of the tender conditions is within the exclusive domain of the Employer and any plea that the bid conditions should have been framed in a better manner or in a different manner is impermissible. This is also too well settled that the writ Court cannot rewrite the conditions of the bid even if it appears to the Court that the conditions thereunder could have been a little different.

6. The argument made on behalf of the petitioners that the clarification issued pursuant to the pre-bid meeting held on

6th January 2026 in fact doesn't change the tender conditions does not appear to be correct. The expression "inhouse" in PQC-17 has been deleted and a wider participation is invited by incorporating the expression "should have". In our opinion, even if the original bid condition of the manufacturer having NABL-accredited inhouse-Laboratory stands in place, this Court cannot interfere in the matter because the petitioners do not fulfill the said criteria.

7. In view of the aforesaid, Writ Petition Nos. 1189 of 2026 and 1356 of 2026 are dismissed.

8. Pending interim applications, if any, stand disposed of.

JAYANT
VISHWANATH
SALUNKE

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[GAUTAM A. ANKHAD, J.]

[CHIEF JUSTICE]