

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

WRIT PETITION NO.405 OF 2026

ALONG WITH

WRIT PETITION NO.406 OF 2026

Sunil Kumar Agrawal,]
Proprietor of M/s. Sunil Kumar Agrawal,]
Raigarh, Chhattisgarh-496001.] .. Petitioner

Versus

1. CIDCO, Navi Mumbai]
Through its Managing Director]
2. The Superintending Engineer (P & K),]
CIDCO, Navi Mumbai]
3. The Executive Engineer (Corporate Project),]
CIDCO, Navi Mumbai] .. Respondents

ALONG WITH

WRIT PETITION NO.1880 OF 2026

Dhansar Engineering Co. Pvt. Ltd.,]
Through Authorized Representative:]
Mr. Amarendra Narayan Jha] .. Petitioner

Versus

1. City and Industrial Development Corporation]
of Maharashtra Limited, Navi Mumbai]
2. The State of Maharashtra,]
Through the Government Pleader] .. Respondents

Mr. Tanveer Nizam, i/by Ms. Mariam T. Nizam, Advocates for the
Petitioner in Writ Petition Nos.405 of 2026 and 406 of 2026.

Mr. Pravin Gaikwad with Mr. Prathamesh M., Advocates for the
Petitioner in Writ Petition (Stamp) No.1880 of 2026.

Dr. Milind Sathe, Advocate General, with Mr. Rahul Sinha,
Mr. Soham Bhalerao, Mr. Harshit Tyagi and Mr. Aditya Mhase,
Advocates, i/by DSK Legal for the Respondents.

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

DATE : 11TH FEBRUARY 2026

PER, GAUTAM A. ANKHAD, J.

As the issue involved in both these writ petitions is common, they were heard together and are disposed of by this common judgment. The limited challenge in the petitions concern certain conditions incorporated in the Notice Inviting Bid dated 15th December 2025 (for short, “the impugned NIT”) issued by the respondent no.1.

2. On 7th November 2024, the respondent no.1 published a NIT for the development of land for International Educity Part-I. On 12th December 2025, the said tender was cancelled for administrative reasons by a corrigendum. Thereafter, on 15th December 2025, the impugned NIT was issued. The last date for submission of bids was 9th January 2026. The grievance of the petitioners is that in the impugned NIT, the experience criteria has been modified by inserting the words “in MMR region” in the following clause (highlighted in bold):

*“2) Experience of having successfully executed works of similar nature in any Govt. Organizations/Govt. Undertaking Agencies/Private Sectors during last 7 (Seven) **in MMR region** years ending last day of the month previous to the one in which applications are invited:*

*(a) One similar executed work of rock extraction by controlled blasting or wedging & chiselling or by line drilling quantity executed not less than 109.54 Lakhs M.T./40.57 Lakhs Cum **in MMR region.***

OR

*(b) Two similar executed work of rock extraction by controlled blasting or wedging & chiselling or by line drilling quantity executed for each work not less than 68.47 Lakhs M.T./25.34 Lakhs Cum **in MMR region.***

OR

*(c) Three similar executed work of rock extraction by controlled blasting or wedging & chiselling or by line drilling quantity executed for each work not less than 54.77 Lakhs M.T./20.29 Lakhs Cum **in MMR region.”***

3. Mr. Tanveer Nizam, the learned counsel for the petitioner submits that the insertion of the words “in MMR region” is arbitrary and intended to restrict competition to favour a particular bidder. According to him, a contractor having successfully executed similar works anywhere in India would be equally competent to execute the subject work at Navi Mumbai. He submits that the geographical restriction bears no rational nexus with the object of selecting the most competent contractor and violates Article 14 of the Constitution of India by denying a level playing field. He further submits the words “on hire basis” have been deleted in clause 5 under the heading “Machinery & Equipment”, which deletion is also arbitrary and unreasonable. On these grounds, he prays that the impugned NIT dated 15th December 2025 be quashed and the respondent no.1 be directed to issue a fresh tender in terms of the original NIT dated 7th November 2024.

4. Mr. Pravin Gaikwad, the learned advocate appearing in Civil Writ Petition (Stamp) No.1880 of 2026 supports the arguments advanced by Mr. Nizam and reiterates that the impugned NIT ought to be set aside by this Court.

5. On the other hand, Dr. Milind Sathe, the learned Advocate General appearing for the respondent no.1 submits that the petitions are devoid of merit. He clarifies that in so far as clause 5 relating to “Machinery & Equipment” is concerned, the words “on hire basis” have been reintroduced by way of a corrigendum in the impugned NIT after the filing of the petitions. Hence, the grievance of the petitioner does not survive on that aspect. In so far as the

insertion of the words “in MMR region” is concerned, the learned Advocate General submits that the project involves large-scale excavation of rock and soil and its transportation and utilisation within the Mumbai Metropolitan Region (MMR). According to the respondent no.1, the experience of executing works of similar magnitude within the MMR region is relevant having regard to the utilisation of excavated material within the same region and logistical conditions. It is submitted that the condition has been incorporated *bona fide* in public interest to ensure timely and efficient execution of the project.

6. Having heard the learned counsel for the parties and upon perusal of the record, we find no merit in these petitions. The cancellation of the earlier NIT dated 7th November 2024 for administrative reasons and the issuance of the impugned NIT cannot by itself, be faulted. It is within the domain of the employer to cancel a tender and issue a fresh tender with modified conditions, provided the decision is taken *bona fide* and the process remains fair and transparent. In “*Michigan Rubber (India) Limited v. State of Karnataka*”¹, the Hon’ble Supreme Court has held that no person or entity has a fundamental right to carry on business with the Government. It is equally well settled, as reiterated by the Hon’ble Supreme Court in “*Shilpi Construction Contractors v. Union of India*”² that the tendering authority is the best judge of its requirements. The fixation of tender conditions lies within the executive domain and the Court has no role in determining what conditions ought to be prescribed. Furthermore,

¹ (2012) 8 SCC 216

² 2019 SCC OnLine SC 1133

the Court cannot substitute its own assessment as to what eligibility conditions would be more appropriate. The scope of judicial review under Article 226 of the Constitution of India in contractual matters is limited. The Court does not sit in appeal over the commercial wisdom of the tendering authority. In “*Association of Registration Plates v. Union of India*”³, the Hon’ble Supreme Court has held that in formulation of tender conditions, a greater latitude is accorded to the authority and unless the action is shown to be malicious or a misuse of statutory power, the conditions are unassailable.

7. In the present case, nothing has been placed on record to demonstrate that the respondent no.1 has acted in a *mala fide* manner with an intention to favour any particular bidder or that the process is arbitrary. No specific instance or evidence has been produced to substantiate the plea of mala fides or colourable exercise of power. The principal challenge is to the prescription of a geographical qualification, namely, experience of executing similar works “in MMR region”. The respondent has furnished a plausible and rational explanation for incorporating this requirement, having regard to the nature of the work, which involves large-scale excavation of rock and soil and their transportation and utilisation within the MMR region. The employer is entitled to prescribe eligibility criteria suitable to the logistical and operational complexities of the project. Considering the same, the decision of tendering authority to issue the impugned NIT cannot be said to be against the public interest as it has been taken to suit its special requirements. Thus, we see no

³ (2005) 1 SCC 679

reason to interfere with the respondent no.1's decision. The petitioners cannot insist upon framing of tender conditions to suit their convenience. The award of a contract is essentially a commercial decision, to be taken on considerations germane to the project and not on the preferences of individual bidders.

8. In so far as clause 5 relating to "Machinery & Equipment" is concerned, in view of the corrigendum reintroducing the words "on hire basis", the grievance of the petitioners does not survive.

9. In these circumstances, we are of the view that the condition in the impugned NIT cannot be termed arbitrary, discriminatory, or violative of Article 14 of the Constitution of India. No case for interference in exercise of writ jurisdiction is made out. Accordingly, Writ Petition No.405 of 2026, Writ Petition No.406 of 2026 and Writ Petition (Stamp) No.1880 of 2026 are dismissed. There shall be no order as to costs.

[GAUTAM A. ANKHAD, J.]

[CHIEF JUSTICE]