Rekha Patil

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 1881 OF 2026

B.S.A. Corporation Ltd.,
The Company registered under the Provisions of Companies Act, 1956, Having its address at V.B. Capitol, Range Hills Road, Opp. Shimponi Hotel, Bhosale Nagar, Shivaji Nagar, Pune 411 007.
Email:- tender@bsagroup.in **...Petitioner**

~ versus ~

1. **The State of Maharashtra.**
2. **Brihanmumbai Municipal Corporation,** Through its Municipal Commissioner, Having address at C.S.T. Fort, Mumbai.
3. **Dy. Chief Engineer (M & E),** C.P.D., Brihanmumbai Municipal Corporation, Central Purchase Department, 566, N.M. Joshi Marg, Mumbai 400 011.
4. **M/s. Shreekrupa Services Pvt. Ltd.,** Having address at No. 201/A, Old Mumbai Pune Highway, Sphurti Society, Wakdewadi, Shivaji Nagar, Pune, Maharashtra 411 005. **...Respondents**

SHEPHALI SANJAY MORMARE

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Date: 2026.04.09 15:15:50 +0530

APPEARANCES

For the Petitioner	**Mr. Zal Andhyarujina, Senior Advocate** with Mr. Sanjay P. Shinde, Mr. Shrey Sancheti & Mr. Prathmesh T.Bhanuwanshe.
For Respondent No. 1-State	**Mrs. Neha S. Bhide, Government**

	Pleader, with Mr. Kedar B. Dighe, Additional Government Pleader & Mr. S. P. Kamble, Assistant Government Pleader.
For Respondent Nos 2 & 3-BMC	**Mr. Anoop Patil** with Mr. D. R. Kawale.
For Respondent No. 4	**Mr. Kunal Bhanage** with Mr. Akshay Pawar, Mr. Vasim Siddiqui
Present in Court	1. **Mr. Shankar Mundhe**, Ex. Engineer, CPD, BMC. 2. **Ms. Minarthi Pawar**, S.E., C.P.D., BMC.

CORAM : SHREE CHANDRASHEKHAR, CJ & SUMAN SHYAM, J.

RESERVED ON : 25th MARCH 2026.
PRONOUNCED ON : 8th APRIL 2026.

JUDGMENT (*Per Suman Shyam, J*):-

1. Rule. Rule made returnable forthwith.

2. By consent of the learned Counsel for the parties, the matter is taken up for final hearing and disposal.

3. The Writ Petitioner herein is a Company registered under the provisions of the Companies Act, 1956.

4. Being aggrieved by the decision of the Respondent Authorities rejecting the Financial Bid/(Price Packet) of the Petitioner despite being the L-1 Bidder, the instant Writ Petition has been filed, *inter alia,* seeking a direction upon the Respondent

Nos.2 and 3 to issue the work order in favour of the Writ Petitioner.

5. The facts and circumstances giving rise to the filing of the Writ Petition, briefly stated, are as hereunder.

6. On 4th August, 2025, the Respondent No.2, i.e., the Brihanmumbai Municipal Corporation ('BMC') had issued E-Procurement Tender Notice No.Dy.Ch.Eng./CPD/TDR/16/AE-4, inviting Bids for the work of "Providing cleaning/ housekeeping services in BMC's peripheral hospital on outsource basis". The Tender was floated through the Mahatender Portal enclosing the tender document. The last date of submission of Tender was fixed at 19th August, 2025 at 16:00 hours. However, by issuing Corrigendum-I notice dated 19th August, 2025, the date for submission of Bid was extended up to 25th August, 2025 at 16:00 hours. On 25th August, 2025, the Municipal Commissioner of the BMC had issued Corrigendum-II, *inter alia,* providing that the bidders are required to submit declaration regarding payment as per the Minimum Wages Act, in Annexure-17, enclosed thereto. The bidders were also asked to submit rate analysis for the quoted rate, i.e., "Annexure B". After opening of the packet 'C' and when intimated by the Department. The Writ Petitioner had submitted its Tender on 8th September, 2025, which was duly acknowledged by the Respondents and the Petitioner was also given an ID No. 6854743.

7. After examining the Administrative and Technical bids submitted by the Petitioner, the same were found to be responsive.

Accordingly, the Respondent No.1 had sent an e-mail on 10th October, 2025 to the Petitioner intimating that the Commercial Packet of responsive bidders would be opened on 13th October, 2025. On 13th October, 2025, the Respondent No.1, through its Assistant Engineer-04, had sent an e-mail asking it to submit Annexure-B, i.e., the Rate analysis for the quoted rate along with Minimum Wages considered and its bifurcation (viz. Basic, HRA, DA and levy etc.) as per the chart attached in Corrigendum-II. The Petitioner was asked to submit the said document on or before 16th October, 2025.

8. On 16th October, 2025, the Petitioner had sent an e-mail to the Respondents submitting the required information, as per Annexure 17 of Corrigendum-II with a further request to the Tendering Authority to revert back if there is any query in the matter. On 17th October, 2025, the Petitioner had submitted another e-mail addressed to the Respondent No.2 undertaking to abide by the guidelines and circular (*Paripatrak*) of the Corporation.

9. On 14th November, 2025, the Petitioner had sent another e-mail addressed to the Respondent/Tendering Authority submitting the detailed bifurcation of the minimum wages as per the request made by the Authority. The Petitioner had also shown his willingness to submit further clarification or additional documents, if required. After receipt of the aforesaid documents/ information, the Respondent No.2 had published the Tender Summary Report dated 20th January, 2026, wherein it was indicated that the Bid submitted by the Petitioner had been rejected on the ground that the "Quoted rates not feasible".

10. The case of the Petitioner is that, although the Bid submitted by the it in packets "A" & "B", i.e., Administrative Bid and the Technical Bid were found to be responsive and notwithstanding the fact that the price of the Petitioner quoted at Rs. 7.8 per sq. ft. turned out to be the lowest price, yet, the Respondents have rejected the Price Bid of the Petitioner by adopting an untenable criteria only to extend undue favour to the Respondent No.2. Hence, this Writ Petition.

11. The Respondent Nos. 2 and 3 have filed their Affidavit-in-Reply virtually admitting the assertions made in the Writ Petition. However, the stand of the Respondent Nos.2 and 3 is that due to some discrepancy in the Annexure-17 statement and the bifurcation submitted by the Petitioner, the price quote was found to be practically not feasible. It is also the projection in the reply that the Chief Labour Officer, on examining the rate analysis and bifurcation of the Respondent No.4, had found the projection to be most practicable. That is why, although, the Respondent No.4 was not the L-1 Bidder, yet, the decision was taken to issue the Work Order in favour of the Respondent No.4. The statements made in the Affidavit-in-Reply in paragraph Nos.5-xix, xxi and xxi would be relevant for the purpose of this case and, therefore, the same are being reproduced herein below for ready reference:-

> *"5. xix. Upon perusal of the bifurcation submitted by the Petitioner and after comparing it with the Annexure-'B' (Rate analysis for Quoted Rate) submitted by the Petitioner, it was*

noticed that the per month/ per employee salary shown to be payable to the employees by the Petitioner in the bifurcation exceeded the amount quoted by the Petitioner in the Annexure-'B' on a month to month basis as well for a cumulative 2 years contract period basis for the stipulated number of employees to be engaged for the services under the services contract.

For ease of reference, the amount arrived at per month (after the same is multiplied by the number of employees to be paid) keeping the bifurcation submitted by the Petitioner on 14.11.2025 as the basis and the monthly amount quoted by the Petitioner under Annexure-'B' in the Rate Analysis for quoted rate has been mentioned herein under in order to demonstrate that the there was a deviation in the cost of manpower submitted by the Petitioner in the said Annexure-'B' when compared to the bifurcation so submitted. The same itself demonstrated that the rates quoted by the Petitioner in Annexure-'B' <u>were below the minimum statutory provision for</u> wages required to be paid under the Minimum Wages Act.

Zone	***No. of Workers***	***Based on the minimum wages bifurcation submitted by the Petitioner. Th Cost per month amounts to***	***As per Annexure-'B' uploaded by the Petitioner. The Cost per month amounts to***	***<u>Remarks</u>*** ---------------------- *It is observed that there is deviation in cost of the man power and the quoted rates are below minimum statutory provision of minimum wages to be paid.*
East Zone Labour Cost (Per Month)	*119 Labours + 18 Supervisors*	*Rs.3916773/-*	*Rs.3457450/-*	
West Zone Labour Cost (Per month)	*55 Labour + 15 Supervisors*	*Rs.2015254/-*	*Rs.1495434/-*	

xx. <u>28.10.2025</u>- Given the fact that the Central Purchase Department (CP Department) of the BMC is a tender processing department and the said tender requires the payment to the manpower to be employed under the services contract to be made in consonance with the Minimum Wages Act, a proposal was forwarded by the Central Purchase Department of the BMC to Chief Labour Officer of the BMC for their specific remarks to confirm the rates quoted by which of

> *the bidders were eligible considering the requirement for payment to be in consonance with Minimum Wages to be paid to the defined Manpower and to provide the service thereon. Annexed hereto and marked as Exhibit-R8 is a copy of the proposal issued by the CP Department to the Chief Labour Officer of the BMC on 28.10.2025.*
>
> *xxi. 10.11.2025- In response to the proposal, the Chief Labour Officer of the BMC informed the CP Department, that rates quoted by Respondent No.4 M/s. Shrikrupa Services Pvt. Ltd. are found to be practical. On the basis of the remarks of the Chief Labour Officer of the BMC the CP Department processed the tender further. Annexed hereto and marked as Exhibit-R9 is a copy of remarks of the Chief Labour Officer dated 10.11.2025."*

12. In its reply affidavit, the Respondent No.4, while questioning the maintainability of the Writ Petition, has also pointed out that the Financial Bid of the petitioner was deficient and, therefore, the same was rightly rejected by the Authorities.

13. Mr. Zal Andhyarujina, learned Senior Counsel appearing for the Petitioner submits that in view of the categorical undertaking given by the Petitioner to comply with the requirement of the Minimum Wages Act as well as the Circulars of the Corporation, there was no justifiable ground for the Respondents to reject the lowest price offered of the Petitioner on the plea that the rate was not practicable. The learned Senior Counsel further submits that even assuming but not admitting that the rate quoted by the Petitioner showing the payment of wages to the skilled and unskilled workers was on the lower side, even then, if the Petitioner is willing to take the loss, the same cannot be a ground for the Authorities to reject the technically responsive L-I Bid of the Petitioner.

14. Mr. Andhyarujina has further argued that it is not the case of the Respondents that the Bid submitted by the Respondent No.4 was fully compliant with the requirements of the payment of Wages Act but it was merely found to be more practicable. Mr. Andhyarujina submits that there is no clause in the Tender document which permits subjective evaluation of the Bids on the ground urged by the Respondents. To sum up his arguments, Mr. Andhyarujina has submitted that not accepting L-I Bid of a technically responsive Bidder is not only arbitrary and illegal but the same would also lead to loss in public exchequer and hence, would be against public interest.

15. Mr. Anoop Patil, learned Counsel appearing for the Respondent Nos. 2 and 3, has argued that it was always open for the Corporation to examine the feasibility of the rates quoted by the Bidder before accepting the same. In this case, after examining the rate analysis as well as the bifurcation submitted by the bidders, the Corporation was of the view that there were material inconsistencies in the projection made by the Petitioner. On the Contrary, the Chief Labour Officer, has himself certified that the Bid submitted by the Respondent No.4 was practicable. Therefore, keeping in mind the interest of the Corporation, the decision to award the work to the Respondent No.4 was L-2, was taken. He further submits that the decision has a rational basis and, therefore, the Writ Court would not interfere with such decision in exercise of equitable jurisdiction under Article 226 of the Constitution of India.

16. Mr. Kunal Bhanage, learned Counsel appearing for the Respondent No.4, has supported the submissions made by the learned Counsel for the BMC Authorities and has further argued that his client has already made heavy investments for executing the work order and, therefore, if the award of the contract is interfered with at this stage, then the same would lead to serious loss and injury to the interest of his client.

17. We have considered the submissions made at the bar and have also gone through the materials available on record.

18. As per the bid document, the bidders are required to submit the Administrative Bid (Packet "A") as well as Technical Bid (Packet "B") along with Commercial Bid (Packet "C"), which would have to be submitted on-line by filling the rates. Clause-31 of the bid document lays down the criteria for evaluation of the Tenders. According to Clause-31, after opening the Packets "A" and "B", i.e., Administrative Bid and Technical Bid, respectively, the Price Bid in Packet "C" will be open if the Tender is found to be responsive. Clause-35 lays down that the contract will be awarded to the successful tenderer whose bid would be determined to the responsive and determined to be lowest in rate as per the price clause of the Tender. Clause-35 further provides that the Municipal Commissioner does not pledge to accept the lowest or any tender and reserves the right to split the quantity amongst the eligible tenderer and to relax any of the conditions of the Tender.

19. In the present case, there is no dispute about the fact that there is some discrepancy between the rate analysis submitted by the Petitioner in Annexure-17 and the bifurcation provided in Annexure-B. On examination of such documents furnished by the Petitioner the Tendering Authority was of the opinion that the rate was not feasible. In a work of this nature which involves providing service of cleaning and housekeeping services in the hospitals, the BMC Authorities would be well within their competence not only to make an objective assessment if the rates submitted by the bidder are feasible but also to verify as to whether, by quoting such low rates, the contractor would be in a position to comply with the statutory norms as well as the standing circulars, more particularly, those relating to the payment of minimum wages to the workers. Upon analyzing such rates and bifurcations, if the employer is of the opinion that the rates quoted by the L-1 bidder is un-realistic, and therefore, not feasible, then it would certainly be open to the employer to decline such price offer, despite the same being the lowest.

20. Law is well settled that price is not the lone criteria to accept the highest bid or the lowest bid, as the case may be, if there exists good and sufficient reason for the Tendering Authorities not to do so. **[See-Meerut Development Authority vs. Association of Management Studies and Anr.[1]].** Therefore, what would be of utmost significance is that the decision of the tendering Authority, in accepting or refusing a Price Bid, must not be arbitrary, discriminatory or aimed at favouritism.

1 (2009) 6 Supreme Court Cases 171

21. In **Central Coalfields Limited vs. SLL-SML (Joint Venture Consortium) and Ors.**[2] while dealing with the scope of judicial review in the matter of award of Tender, the Hon'ble Supreme Court, after examining the various earlier decisions on the subject, has made following observations in paragraph No. 47 is reproduced herein-below:-

> *"47. The result of this discussion is that the issue of the acceptance or rejection of a bid or a bidder should be looked at not only from the point of view of the unsuccessful party but also from the point of view of the employer. As held in Ramana Dayaram Shetty v. International Airport Authority of India, [(1979) 3 SCC 489] the terms of the NIT cannot be ignored as being redundant or superfluous. They must be given a meaning and the necessary significance. As pointed out in Tata Cellular v. Union of India, [(1994) 6 SCC 651], there must be judicial restraint in interfering with administrative action. Ordinarily, the soundness of the decision taken by the employer ought not to be questioned but the decision making process can certainly be subject to judicial review. The soundness of the decision may be questioned if it is irrational or mala fide or intended to favour someone or a decision "that no responsible authority acting reasonably and in accordance with relevant law could have reached" as held in Jagdish Mandal v. State of Orissa, [(2007) 14 SCC 517] followed in Michigan Rubber (India) Ltd. v. State of Karnataka [(2012) 8 SCC 216]*

22. It must be borne in mind that feasibility of the price quoted a bidder in a tender process would have a relevant bearing on the question of proper implementation of the work order. Therefore, the same would be germane to the smooth execution of the contract. As such, the employer cannot be deprived of its authority to take a decision on the question of viability of the price quoted before taking a decision on accepting the same.

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2 (2016) 8 Supreme Court Cases 622

23. Having regard to the facts and circumstances of the case, more particularly, the statutory requirement to pay minimum wages to the skilled and unskilled labours as well as the opinion of the Chief Labour Officer, we are of the unhesitant opinion that the decision not to accept the Price Bid of the Petitioner is not vitiated by arbitrariness but the same has a rational basis. Such decision is also found to be in consonance with clause 35 of the Bid Document.

24. There is no material to indicate that the impugned decision is aimed at extending undue favour to the Respondent No.4. Rather, it appears that the Respondents have applied uniform criteria for evaluation of the Bids in respect of all the 10 bidders, whose Administrative and Technical Bids have been found to be responsive.

25. For the reasons stated herein-above, we are of the view that the Writ Petition is devoid of any merit. The same is, accordingly, dismissed. Rule is discharged.

26. Parties to bear their own costs.

(SUMAN SHYAM, J) **(CHIEF JUSTICE)**