

[2022 LiveLaw \(SC\) 542](#)

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
HEMANT GUPTA; V. RAMASUBRAMANIAN, JJ.

MAY 18, 2022

CIVIL APPEAL NO. 4140 OF 2022 [@ SPECIAL LEAVE PETITION (C) NO. 7150 OF 2022]

JAI BHOLENATH CONSTRUCTION

versus

THE CHIEF EXECUTIVE OFFICER, ZILLA PARISHAD, NANDED & ORS.

Constitution of India, 1950; Article 226 - Tender - High Court dismissed WPs challenging acceptance of tender following observations made in M/s N. G. Projects Ltd. Vs. M/s Vinod Kumar Jain and others, [2022 LiveLaw \(SC\) 302](#) - Appeal allowed - High court has totally misread the Judgment - Respondent was declared eligible in a flagrant violation of principles of natural justice and all fairness in the process of determining the eligibility of the tenderers.

(Arising out of impugned final Judgment and order dated 30.03.2022 in WP No. 14156 of 2021 passed by the High Court of Judicature at Bombay at Aurangabad)

For Appellant(s) Mr. Satyajit A. Desai, Adv. Mr. Siddharth Gautam, Adv. Mr. Satya Kam Sharma, Adv. Ms. Deb Deepa Majumdar, Adv. Ms. Anagha S. Desai, AOR

ORDER

Office Report dated 17.05.2022 indicates that Respondent Nos. 1 and 4 have refused to accept Dasti notice and Respondent Nos. 2 and 3 have accepted notice, but no one has entered appearance on their behalf.

Leave granted.

The challenge in the present appeal is to an order dated 30.03.2022 passed by the High Court of judicature at Bombay, Bench at Aurangabad, whereby the writ petition filed by the appellant was dismissed, relying upon an order passed by this Court in **M/s N.G.Projects Ltd. Vs. M/s Vinod Kumar Jain**, [Civil Appeal No. 1846 of 2022], reported in **2022 (5) SCALE 105**.

It was on 17.08.2021, a tender was published inviting offers for the construction of staff quarters of the Primary Health Center, Ewaleshwar, Taulka Mahur, District Nanded. Four bidders participated in the bid, including the appellant and Respondent No. 4 – M/s L.D. Constructions. The appellant was found to be a lowest bidder but the Letter of Intent was not issued to the appellant. It was on 24.11.2021, the Zila Parishad decided that M/s L.D. Constructions – Respondent No. 4 was excluded from the process and was declared it ineligible for non-compliance of the documents. The said respondent was found to be eligible, when the following note was recorded:-

“The Technical Bid envelope of the subject mentioned work was opened on 26.08.2021 and L.D. Construction was excluded from the process and declared ineligible for non-compliance of documents. In this regard, L.D.Construction, in a personal visit, has informed in writing that the proper documents are submitted, hence the tender be

perused again. Therefore, the tender committee again perused the documents and found that L.D. Construction has submitted complete documents and as they are eligible they are included in the tender process. Therefore, the Technical/Financial envelopes are being opened again after making some changes in the tender process as per rules. Hence, the tender committee issued corrigendum in this regard.”

It is thereafter, the bid of Respondent No. 4 was accepted. The said action was challenged in a writ petition by the appellant.

We have heard the learned counsel for the appellant. We find that the High court has totally misread the Judgment of this Court. Respondent No. 4 was declared eligible in a flagrant violation of principles of natural justice and all fairness in the process of determining the eligibility of the tenderers. The bid of Respondent No. 4 was accepted when at the time of opening of technical bids, the said respondent was disqualified. Therefore, the manner in which the bid has been accepted, shows arbitrary exercise of the power.

Consequently, the order passed by the High Court is set aside. The respondent – Zilla Parishad to process the matter further from the stage prior to issuance of corrigendum dated 24.11.2021.

In view of above, the civil appeal is disposed of.

Pending interlocutory application(s), if any, is/are disposed of.

© All Rights Reserved @LiveLaw Media Pvt. Ltd.

*Disclaimer: Always check with the original copy of judgment from the Court website. Access it [here](#)