
(1998) 4 BomCR 502

Bombay High Court

Case No: Writ Petition No. 1474 of 1998

I.V.R. Construction
Limited

APPELLANT

Vs

Maharashtra State
Electricity Board and
others

RESPONDENT

Date of Decision: Aug. 12, 1998

Acts Referred:

Civil Procedure Code, 1908 (CPC) " Order 39 Rule 1, Order 39 Rule 2#Constitution of India,
1950 " Article 14, 226

Citation: (1998) 4 BomCR 502

Hon'ble Judges: B.P. Saraf, J; A.Y. Sakhare, J

Bench: Division Bench

Advocate: Dr. Kulkarni, for the Appellant; C.J. Sawant, A.G., Ms. D. Chavan, instructed by
Little and Co., D.H. Mehta and G. Joshi, instructed by Desai and Diwanji, for the Respondent

Judgement

@JUDGMENTTAG-ORDER

Dr. B.P. Saraf, J.

Heard learned Counsel for the parties. Perused the affidavit and minutes of the Board
meeting. Also considered the

report of the Committee of respondent No. 1 by which (he petitioner"s case was
recommended for allotment of work. There is no dispute about

the fact that not only the petitioner company but respondent No. 3 was also not eligible as
per the eligibility criteria The eligibility criteria was

relaxed in case of respondent No. 3 and not in case of the petitioner. Our attention has
been drawn by the learned Counsel for to petitioner to the

fact that the petitioner has the experience of laying down 2,000 mm diameter pipe line for more than 5 km. as against the eligibility requirement of 3

km. Only disqualification of the petitioner company pointed out by respondent No. 1 was that it fell short of experience by one year. So far as

respondent No. 3 company is concerned, there is a categorical finding that it fell short of qualifying requirement pertaining to laying down large

diameter length i.e. 3 km. of 2,000 mm diameter pipe line, service period/experience completion of the system prescribed in the tender.

Respondent No. 1, however, waived the requirement in case of respondent No. 3 only on the ground that its tender was lower than the petitioners

by Rs. 43,28,316/-. After hearing the learned Advocate General and the learned Counsel for the parties, it appears that the only consideration that

weighed in the mind of respondent No. 1 to accept tender of respondent No. 3 was the lower amount offered by respondent No. 3. Our attention

was also drawn by the learned Counsel for the petitioners to the facts that the request made by respondent No. 3 to relax the eligibility criteria has

been rejected by the Board by its communication dated 19-2-1998. Nothing could be shown to us as to why its case was reconsidered.

2. We asked the learned Counsel for the petitioners whether the petitioner was prepared to reduce the price quoted by it and the period of

completion. We also asked the learned Counsel for respondent No. 3 whether respondent No. 3 was also prepared to reduce the price quoted by

it and also the period of completion. We were informed by the learned Counsel for respondent No. 3 that respondent No. 3 did not want to

participate in this process and was not prepared to reduce either the price quoted or the period. The learned Counsel for the petitioner, however,

informed that the petitioner was prepared to reduce substantially both the price and the period.

3. Considering the totality of the facts and circumstances of the case, we issue Rule and pass interim order in terms of prayer Clause (c).

Respondents waive service.

4. The learned Counsel appearing for respondent Nos. 1 and 2 stated before us that pendency of this writ petition should not come in the way of

respondent No. 1 either reconsidering the entire matter afresh and to take the fresh decision or to invite fresh tenders. We clarify accordingly.

5. Mr. Mehta, learned Counsel appearing for respondent No. 3 prays for stay of this order. We do not find any cogent reason to do so. Prayer is

rejected.