



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR**

WRIT PETITION NO. 293 OF 2026

M/s G.H. Khandelwal,
A registered Partnership Firm,
through its Partner,
Shri. Ankur S/o Rupchand Khandelwal,
having registered office at Minakshi Sadan,
New Congress Nagar, Amravati – 444606.

...Petitioner

// VERSUS //

1. Amravati Municipal Corporation,
through its Commissioner, Amravati-444601
2. The Deputy Commissioner,
Amravati Municipal Corporation, Amravati.
3. The City Engineer,
Amravati Municipal Corporation, Amravati.
4. Idris S/o Juzar Izzuddin Saify,
Contractor, Office at 2nd Floor Juzar
Megamart, Jaistambh Chowk, Jawahar
Road, Amravati 444601.
5. Juzar Infraprojects
through sole proprietor,
Juzar Izzuddin Saify,
Office at 2nd Floor Juzar Megamart,
Jaistambh Chowk, Jawahar Road,
Amravati 444601.

... Respondents

Shri Anand Jaiswal, Senior Advocate assisted by Ms. Radhika Bajaj, Advocate for the petitioner.

Shri J.B. Kasat, Advocate for the respondent nos. 1 to 3.

Shri B.L. Borikar, Advocate for the respondent no.4.

**CORAM : URMILA JOSHI-PHALKE &
NIVEDITA P. MEHTA, JJ.**

Reserved on : 16th April, 2026

Pronounced on : 23rd April, 2026

JUDGMENT : (PER : NIVEDITA P. MEHTA J.)

Rule. Rule made returnable forthwith by the consent of the parties, and the matter has been heard finally at the admission stage.

2. By the present petition, the petitioner has challenged the action of the respondent no.1 – Amravati Municipal Corporation in respect of e-tender bearing No. 2025_AMC_1253538_1, for the work of maintenance and repair of roads within municipal limits of Amravati, whereby the technical bid submitted by the petitioner came to be rejected and the bid of respondent no.4 was found responsive and taken forward for opening of the financial bid. The petitioner calls in question the rejection of its technical bid as well as the consequential acceptance and further processing of the bid of respondent no.4. Pursuant thereto, the Petitioner has sought the following reliefs:

- a) *quash and set aside the rejection of the petitioner's technical bid by the respondent authorities vide Tender Summary Report dated 15-12-2025 (Annexure No. B);*
- b) *quash and set aside the acceptance and further processing of the bid of Respondent No. 4 vide Tender Summary BOQ Comparative Chart dated 15-12-2025 (Annexure No. - B)*
- c) *declare that the participation of respondent No. 4 along with his father's proprietary concern constitutes cartelisation and is impermissible in law;*

- d) *direct respondents No. 1 to 3 to hold that the petitioner's bid is technically sound and is in accordance with law and tender conditions;*
- e) *direct respondents No.1 to 3 to open the financial bid of the petitioner and declare it to be the lowest bidder and grant the tender to the petitioner ;*
- f) *pending hearing and final disposal of this petition, restrain the respondents from issuing any work order to the respondent No. 4 pursuant to the impugned tender;*
- g) *grand ad-interim reliefs in terms of prayer clause (f);*
- h) *grant such other reliefs as this Hon'ble Court deems fit in the interest of justice.*

3. The brief facts of the case are that the petitioner is a registered partnership firm engaged in execution of civil contracts, particularly road construction, maintenance and allied infrastructure works. It is duly registered as a Class IV contractor with the Public Works Division, Amravati, Public Works Department of the Government of Maharashtra as well as Amravati Municipal Corporation. It is the case of the petitioner that it has successfully completed several municipal contracts of similar nature in the past and holds valid work completion certificate issued by the said authority.

4. Respondent No.1 issued an e-tender bearing Tender ID 2025_AMC_1253538_1, pursuant to Tender Notice No. 64/2025 dated 28.11.2025 for the work titled as "*Maintenance for road repair patches potholes CC road and WBM road at various places in Zone Nos. 1, 2, 3 ,4 & 5 Amravati*". The estimated cost of the work was approximately ₹ 1.59 crores and the stipulated period for

completion was three months. The work order prescribed certain eligibility conditions which included prior experience and availability of specialized machinery. The tender was floated on the Maharashtra e-procurement portal and was open to eligible contractors. As per the tender schedule, the process of submission of bids commenced on 28/11/2025 and concluded on 08/12/2025, and the technical bids were scheduled to be opened on 09/12/2025.

5. The petitioner submitted its bid within the stipulated time along with the documents forming part of the technical bid including proof of experience certificate and machinery detail. The petitioner relied upon a work done certificate issued by the office of the respondent Corporation, certifying execution of bituminous patch work during the financial years 2022–23, 2023–24 and 2024–25, and asserted that the aggregate value of such work exceeded ₹1 crore, thereby satisfying the eligibility condition prescribed under the tender. Though the technical bids were scheduled to be opened on 09/12/2025, the outcome of the technical evaluation was reflected on the e-procurement portal on 15/12/2025 at about 10:43 a.m., wherein the bid submitted by the petitioner was shown as “Rejected-Technical”, whereas the bids of respondent nos.4 and 5 were found responsive. Immediately thereafter, the financial bids of the said respondents were opened on the same day. As a consequence, the petitioner stood excluded from further participation in the tender process. Respondent no.4 was declared the lowest bidder.

6. Learned Senior Counsel, Shri Anand Jaiswal, assisted by learned Counsel Ms. Radhika Bajaj appearing for the petitioner, assailed the aforesaid action of the respondent Corporation on multiple grounds.

7. It is contended that respondent nos. 4 and 5, who are son and father respectively, have participated in the bidding process as separate bidders while relying upon substantially common machinery, resources and infrastructure, thereby forming a single economic unit. Such participation, according to the petitioner, is collusive in nature, amounts to cartelization and defeats the requirement of genuine and fair competition in the tender process.

8. The learned Senior Counsel further submits that the petitioner was orally informed by the respondent authorities that its bid came to be rejected on the ground that it had not executed work of ₹ 1 crore in any single financial year as required under the tender. The petitioner disputes this position and contends that such a requirement is not prescribed in the tender document. It is submitted that a plain reading of Clause 3(3) of the tender conditions indicates that the contractor is required to have completed similar works of approximately ₹1 crore during the last three financial years, namely 2022–2023, 2023–2024 and 2024–2025. According to the petitioner, the clause does not mandate that such work must have been executed within a single financial year, and rather contemplates cumulative execution over the said period. The interpretation adopted by respondent nos. 1 to 3 is, therefore, stated to be erroneous and contrary to the express terms of the tender.

9. It is further contended that the petitioner had placed on record a work done certificate issued by respondent no.1 itself, certifying execution of works exceeding ₹1.41 crores across the aforesaid three financial years with satisfactory performance. The petitioner submits that once such a certificate has been issued by

the respondent authority after due verification, the same could not have been disregarded at the stage of evaluation.

10. It is also submitted that the tender condition requires submission of a work done certificate and does not mandate production of individual work orders. Therefore, the insistence on additional documents, including work orders, amounts to introducing requirements not contemplated under the tender conditions.

11. It is further submitted that both respondent nos. 4 and 5 have uploaded documents reflecting common ownership and control, including identical business addresses, overlapping machinery, and a list of common technical personnel. Additionally respondent no.5 Juzar Infra Projects has executed a hire agreement of machinery with another party namely Idris Juzar Izzuddin Saify (respondent no. 4) for use of machinery, which further evidence collusive practices and undermines the fairness of tender process. Certain documents, including undertakings, indicate interdependence between the two entities, thereby undermining their status as independent bidders.

12. The learned Senior Counsel for the petitioner states that objections were raised on the very same day, i.e., 15.12.2025, before respondent nos. 1 to 3 highlighting the alleged cartelization and irregularities in the tender process. However, no action was taken and the said objections remained unaddressed.

13. The learned Senior Counsel further submits that the impugned decision constitutes a colourable exercise of power and reflects manifest favouritism towards respondent no.4, resulting in serious prejudice to the petitioner and corresponding

loss to the public exchequer. It is contended that the rejection of the petitioner's technical bid is wholly arbitrary, illegal and vitiated by non-application of mind.

14. It is further pointed out that discrepancies exist in the documents submitted by respondent no.4. In particular, in the list of technical personnel, the name "Vikram Kumar" is shown along with mobile number 7030184039, whereas the individual bearing the same mobile number has submitted his name as "Vikram Govind Kale." Such inconsistencies, according to the petitioner, cast serious doubt on the authenticity and genuineness of the documents submitted by respondent no.4.

15. It is also urged that though the technical bids were scheduled to be opened on 09.12.2025, the respondent authorities failed to provide any effective opportunity to the petitioner to furnish clarification or cure the alleged defects. The technical evaluation was conducted belatedly and the petitioner's bid was rejected in an arbitrary manner. It is submitted that the financial bids were opened almost simultaneously thereafter, rendering the entire process opaque, unfair and in violation of established tender norms.

16. It is further submitted that had a reasonable opportunity been afforded, the petitioner would have complied with all requirements and could have emerged as the lowest bidder.

17. It is lastly contended that despite an order dated 16.01.2026 passed by this Court directing that no work order shall be issued, the respondent authorities issued communication dated 12.01.2026 directing respondent no.4 to undertake patch work from Gopal Nagar to MIDC Road, Amravati, which has since been executed. Such

conduct, according to the petitioner, amounts to willful disobedience of the order of this Court.

18. On the aforesaid grounds, it is submitted that the rejection of the petitioner's bid and all consequential actions of the respondent authorities are illegal, arbitrary and *mala fide*. It is in violation of Article 14 and 19(1)(g) of the Constitution of India as a qualified bidder has been rejected while collusion bidder has been accepted and thus is liable to be set aside.

19. *Per contra*, Shri J.B. Kasat, learned Counsel appearing for respondent nos. 1 to 3, opposed the petition and supported the impugned action.

20. Shri J.B. Kasat submits that the petition is liable to be dismissed on the ground of delay and laches as well as on merits. He states that the impugned tender summary report was uploaded on 15.12.2025, whereas the present petition has been filed on 13.01.2026, without any satisfactory explanation for the intervening delay. Further, he contends that the impugned e-tender dated 28.11.2025 was issued in compliance with directions of this Court in Public Interest Litigation No. 71/2013 concerning urgent road repairs, and that the entire process has been conducted in a fair and transparent manner in accordance with the prescribed conditions.

21. It is submitted that three bids were received within the stipulated time and, upon opening of the technical bids on 09.12.2025, it was found that the petitioner and respondent no.5 had not initially uploaded the mandatory work done certificate as required under Clause 3(ज). An opportunity was thereafter granted to them by

communication dated 10.12.2025 to cure the deficiencies and submit the requisite documents, including a work order and a work done certificate. In response thereto, the petitioner submitted certain documents including a work order and a work done certificate. However, upon scrutiny by the Tender Evaluation Committee in its meeting dated 14.12.2025, it was found that the said certificate did not satisfy the requirements prescribed under Clause 3(ग) of the tender conditions.

22. It is vehemently argued that the petitioner failed to establish execution of work of ₹1 crore in any one financial year, namely 2022–2023, 2023–2024 or 2024–2025, and instead sought to rely upon multiple work orders of lesser value by clubbing them together, which was not permissible under the tender conditions. It is further pointed out that certain work orders referred to in the certificate were not produced and that the documents submitted lacked clarity regarding period of completion, quality certification and satisfactory execution and on that basis, the bid of the petitioner was found to be technically non-responsive.

23. The learned Counsel submits that the Tender Evaluation Committee, upon due consideration of the material on record, found the petitioner ineligible and rejected its technical bid, and the said decision was duly uploaded on 15.12.2025 prior to opening of the financial bids. The financial bids of technically qualified bidders were thereafter opened on the same day and respondent no.4 emerged as the lowest bidder. A Letter of Intent was accordingly issued in its favour, though issuance of formal work order was deferred on account of the Model Code of Conduct.

24. As regards the allegation of non-compliance of the order of this Court, it is submitted that the communication dated 12.01.2026 issued to respondent no.4 was on account of urgent patch work required to be carried out on roads between Gopal Nagar and MIDC, Amravati, and that the said communication was issued prior to the order passed by this Court. It is further submitted that the Letter of Intent had already been issued in favour of respondent no.4.

25. Insofar as the allegation of cartelization is concerned, it is submitted that mere existence of a familial relationship between respondent nos. 4 and 5 does not, by itself, establish collusion. It is submitted that both entities are independent registered contractors and there is no bar under the tender conditions against such participation. The entire tender process has been conducted strictly in accordance with the prescribed conditions, after due application of mind and in adherence to principles of fairness and transparency.

26. It is lastly submitted that the present matter arises out of a contractual tender process and that the scope of judicial review under Article 226 of the Constitution of India is limited. Hence, the learned Counsel prays that in the absence of arbitrariness, *mala fides* or violation of statutory provisions, no interference is warranted.

27. Shri Borikar, learned Counsel appearing for respondent no.4, also opposed the petition. He contended that the entire tender process has been conducted strictly in accordance with the prescribed terms and conditions and that the petitioner has failed to demonstrate any *mala fides* or arbitrariness in the process.

28. The learned Counsel for respondent no 4 submitted that it is not in dispute that three bidders, namely the petitioner and respondent nos. 4 and 5, participated in the tender process. Upon opening of the technical bids on 09.12.2025, the Tender Evaluation Committee scrutinized the documents and found that respondent no.4 had complied with all eligibility criteria, including Clause 3(ब) of the tender conditions. In contrast, the petitioner and respondent no.5 failed to submit valid and compliant work done certificates. Despite an opportunity being granted to cure deficiencies vide communication dated 10.12.2025, the documents submitted by the petitioner were found to be deficient and not in conformity with the requirements of Clause 3(ब). The technical bid of the petitioner was accordingly rejected in the meeting dated 14.12.2025 and the bid of respondent no.4 was accepted. Thereafter, the financial bids were opened and respondent no.4 emerged as the lowest bidder and was issued a Letter of Intent dated 15.12.2025, though the formal work order was delayed due to the Model Code of Conduct.

29. With regard to the allegation of cartelization, it is submitted that respondent nos. 4 and 5, though related, are independent contractors carrying on separate proprietary businesses. In the absence of any cogent material indicating collusion, bid manipulation or lack of independent decision-making, mere familial relationship cannot be a ground to infer cartelization.

30. He further submitted that respondent no.4 has already undertaken and executed urgent patch work as directed by the Corporation, thereby demonstrating its technical competence and readiness to perform the contract. Thus, he contends

that the petitioner has failed to make out any case of illegality, arbitrariness or *mala fides* warranting interference under Article 226 of the Constitution of India.

31. We have given our conscious consideration to the rival submissions and have perused the material placed on record. The controversy essentially revolves around the interpretation of Clause 3(ज) of the tender document, the sufficiency of the documents submitted by the petitioner in support of its eligibility, and whether the decision-making process adopted by the respondent Corporation suffers from arbitrariness so as to warrant interference in exercise of writ jurisdiction.

32. At the outset, it is necessary to delineate the contours of judicial review in matters arising out of contractual and tender process. The law is well settled that the State and its instrumentality enjoy certain latitude in formulating tender conditions and evaluating bids, particularly where such decision involved technical and commercial considerations. The scope of interference is confined to examining the decision-making process and not the merits of the decision itself. Unless the action of the authority is shown to be arbitrary, *mala fide*, irrational or in violation of the tender conditions, the Court would ordinarily refrain from interfering. The Court must be conscious not to substitute its own view for that of expert body and entrusted with evaluation. The principle of fairness, transparency and non-discrimination formed the backdrop of public procurement. However, this principle must be balanced against plea of administrative efficacy and commercial prudence.

33. The aforesaid principles have been consistently reiterated by the Hon'ble Supreme Court in a catena of decisions, wherein it has been held that the authority

issuing the tender is the best judge of its requirements and the interpretation of its terms. It has been further held that even if more than one interpretation of a tender condition is possible, the interpretation adopted by the tendering authority ought not to be interfered with, unless it is shown to be arbitrary, perverse or actuated by *mala fides*.

34. In *Tata Cellular V. Union of India, AIR 1996 SC 11*, the Hon'ble Supreme Court has summarized the guiding principles in paragraph 113 of the judgment as under :

“113. The principles deducible from the above are:

(1) The modern trend points to judicial restraint in administrative action.

(2) The court does not sit as a court of appeal but merely reviews the manner in which the decision was made.

(3) The court does not have the expertise to correct the administrative decision. If a review of the administrative decision is permitted it will be substituting its own decision, without the necessary expertise which itself may be fallible.

(4) The terms of the invitation to tender cannot be open to judicial scrutiny because the invitation to tender is in the realm of contract. Normally speaking, the decision to accept the tender or award the contract is reached by process of negotiations through several tiers. More often than not, such decisions are made qualitatively by experts.

(5) The Government must have freedom of contract. In other words, a fair play in the joints is a necessary concomitant for an administrative body functioning in an administrative sphere or quasi-administrative sphere. However, the decision must not only be tested by the application of Wednesbury principle of reasonableness (including its other facts pointed out above) but must be free from arbitrariness not affected by bias or actuated by mala fides.

(6) Quashing decisions may impose heavy administrative burden on the administration and lead to increased and unbudgeted expenditure.”

35. In ***Silppi Constructions Contractors V. Union of India and another, (2020) 16 SCC 489***, the Hon’ble Supreme Court has held that the authority floating the tender is the best judge of its requirements, and therefore, the Court’s interference should be minimal. It is held in paragraph 20 as under :

“20. The essence of the law laid down in the judgments referred to above is the exercise of restraint and caution; the need for overwhelming public interest to justify judicial intervention in matters of contract involving the State instrumentalities; the courts should give way to the opinion of the experts unless the decision is totally arbitrary or unreasonable; the court does not sit like a court of appeal over the appropriate authority; the court must realise that the authority floating the tender is the best judge of its requirements and, therefore, the court's interference should be minimal. The authority which floats the contract or tender, and has authored the tender documents is the best judge as to how the documents have to be interpreted. If two interpretations are possible then the interpretation of the author must be accepted. The courts will only interfere to prevent arbitrariness, irrationality, bias, mala fides or perversity. With this approach in mind we shall deal with the present case.”

36. In ***Michigan Rubber (India) Limited Versus. State of Karnataka and others, (2012) 8 SCC 216***, the Hon’ble Supreme Court has once again summarized the principles governing the scope of judicial review in tender matters. It has held in paragraph 23 as under :

“23. From the above decisions, the following principles emerge:

(a) The basic requirement of Article 14 is fairness in action by the State, and non-arbitrariness in essence and substance is the heartbeat

of fair play. These actions are amenable to the judicial review only to the extent that the State must act validly for a discernible reason and not whimsically for any ulterior purpose. If the State acts within the bounds of reasonableness, it would be legitimate to take into consideration the national priorities;

(b) Fixation of a value of the tender is entirely within the purview of the executive and the courts hardly have any role to play in this process except for striking down such action of the executive as is proved to be arbitrary or unreasonable. If the Government acts in conformity with certain healthy standards and norms such as awarding of contracts by inviting tenders, in those circumstances, the interference by courts is very limited;

(c) In the matter of formulating conditions of a tender document and awarding a contract, greater latitude is required to be conceded to the State authorities unless the action of the tendering authority is found to be malicious and a misuse of its statutory powers, interference by courts is not warranted;

(d) Certain preconditions or qualifications for tenders have to be laid down to ensure that the contractor has the capacity and the resources to successfully execute the work; and

(e) If the State or its instrumentalities act reasonably, fairly and in public interest in awarding contract, here again, interference by court is very restrictive since no person can claim a fundamental right to carry on business with the Government.”

37. Similar view has been upheld by the Hon'ble Supreme Court in the case of ***Agmatel India Private Limited V. Resoursys Telecom and Others, (2022) 5 SCC 362***, wherein it underscores that interference by the High Court is unwarranted in the absence of any allegation or proof of *mala fides* or bias. Merely because a decision of the administrative authority does not appeal to the Court or appears less acceptable cannot, by itself, render such decision arbitrary or whimsical.

38. The Court, therefore, exercises restraint in interfering with technical evaluation of bids unless the decision is demonstrably unreasonable or in violation

of the tender conditions themselves. Keeping in mind the principles discussed above, we now advert to the challenge raised by the petitioner in the present petition.

39. The central controversy revolves around interpretation of clause 3(ज) of the tender condition which requires the bidder to complete similar work during last three financial years by approximate value of Rs.1 Crore. For the sake of convenience, the same is reproduced herein below:

"कंत्राटदाराने मागील 3 वित्तीय वर्षांमध्ये (2022-23, 2023-24, 2024-25) मनपा क्षेत्रात किमान 1/- कोटी रुपये मूल्याचे डांबरी पॅचेसचे काम केलेले असणे आवश्यक आहे- व त्यानुसार कामाचे प्रमाणपत्र जोडणे आवश्यक आहे- तसेच सदर पॅचेसचे काम आपण नियुक्त कालावधीत व गुणवत्तापूर्वक पूर्ण केल्याचे प्राधीकृत अधिकारी यांचे प्रमाणपत्र संबंधीत कंत्राटदाराने निविदे सोबत जोडणे आवश्यक आहे."

40. The learned Senior Counsel for the petitioner has urged that the clause permits aggregation of work executed over three financial years to meet threshold of Rs.1 crore, whereas respondents have construed the clause as requiring execution of such value within a single financial year. A plain reading of the clause thus indicates some degree of ambiguity inasmuch as it does not expressly stipulate whether the value is to be achieved cumulatively or within a single year. However, it is equally well settled that in matters of the tender interpretation, the author of the tender documents is the best judge of its requirement, and its interpretation must ordinarily be accorded deference as held in *Afcons Infrastructure Limited V.*

Nagpur Metro Rail Corporation Ltd. and another, (2016) 16 SCC 818. Paragraph

15 of the said judgment is reproduced hereinbelow:

“15. We may add that the owner or the employer of a project, having authored the tender documents, is the best person to understand and appreciate its requirements and interpret its documents. The constitutional Courts must defer to this understanding and appreciation of the tender documents, unless there is mala fide or perversity in the understanding or appreciation or in the application of the terms of the tender conditions. It is possible that the owner or employer of a project may give an interpretation to the tender documents that is not acceptable to the constitutional Courts but that by itself is not a reason for interfering with the interpretation given.”

41. The purpose underlining such eligibility criteria is to ensure that the bidder possesses demonstrable technical and financial capacity to execute works of substantial magnitude. Viewed in this context, the interpretation adopted by the respondents, that the bidder must demonstrate the execution of work of comparable state within a define time frame, cannot be said to be irrational and arbitrary. Even assuming that the clause is capable of a different interpretation as suggested by the petitioner, the Court would not be justified in substituting its own interpretation in place of that adopted by the tendering authority. Unless interpretation adopted is categorically unreasonable or established by *mala fides* judicial restraint must prevail.

42. The record further indicates that upon initial scrutiny the petitioner had not furnished the work done certificate in conformity with clause 3(ॐ). Thereafter, an opportunity was granted to the petitioner by communication dated 10.12.2025 to

submit the requisites documents. The petitioner thereafter submitted a work done certificate and certain work orders. However, upon detailed scrutiny by the tender evaluation committee in its meeting dated 14.12.2025, the following deficiencies were noted.

- a) The work done certificate does not establish the execution of work of Rs.1 crore in any identifiable financial year.
- b) Multiple work orders of lesser value were clubbed together without clarity as to the completion of timelines.
- c) Certain work order referred to in the certificate were not produced.
- d) The documents lacked specificity regarding satisfactory certificate completion, quality certification and period of execution.

43. Evaluation of such document is a matter requiring technical expertise and administrative assessment. Tender evaluation committee being the designated expert body has undertaken such evaluation and recorded its findings. This Court does not find any material to indicate that the decision is perverse, arbitrary or based on extraneous consideration. The conclusion that the petitioner failed to meet the eligibility criteria is a possible and reasoned one, based on the material placed before the Committee.

44. The contention of the petitioner that it was denied an opportunity to clarify the alleged deficiencies is also not borne out from the record. The communication dated 10/12/2025 clearly indicates that an opportunity was granted to the petitioner to furnish the requisite documents, which the petitioner availed. Once such an opportunity was provided and the documents were duly considered, it cannot be said that there is any violation of principles of natural justice.

45. In tender matters, the application of principle of natural justice is neither rigid nor formalistic; the requirement is of fairness in action. Once an opportunity to cure defects has been provided, the bidder cannot claim an indefinite right to further clarification. The decision-making process, therefore, cannot be faulted on the grounds of violation of principles natural justice.

46. The submission of the petitioner that the technical evaluation and opening of financial bids took place in close proximity of time also does not advance its case. Mere proximity in timing does not, by itself, establish arbitrariness or lack of fairness, particularly when the record indicates that the process of scrutiny and evaluation had already been undertaken and the petitioner had been afforded an opportunity to submit documents.

47. The learned Senior Counsel for the petitioner has also alleged cartelization on the ground that respondent nos. 4 and 5 are related as son and father and had participated in the same tender. While cartelization is a serious allegation that strike at the root of fair competition, the same must be substantiated by cogent and credible material. Mere relationship between bidders, cannot be an inference of collusion. What is required to establish in such a case is that the tendering authority has abused its dominance or that the competent bidder is ousted as a result of anti-competitive practices. None of these to the prejudice of petitioner is evident in the present case.

48. Upon scrutiny, the contention does not sustain. The allegation of cartelisation is based primarily on the relationship between respondent nos.4 and 5 and certain

similarities in the documents submitted by them. However, it is not in dispute that both respondents are independently registered contractors and have participated in the tender process in their individual capacities. The tender document does not prohibit participation by related entities. In the absence of any material to demonstrate bid-rigging, price manipulation or lack of independent decision-making, the allegation of cartelisation remains unsubstantiated.

49. The petitioner has further relied upon an undertaking executed by respondent Nos. 4 and 5 to contend that they are acting hand in gloves. However, as observed earlier, both respondents are independent entities and their participation in the tender process is in their individual capacities. The said contention, therefore, does not merit acceptance. The additional discrepancies pointed out in the technical personnel details, even if it assumes to be irregularities, are not of such magnitude as to vitiate the entire process in the absence of demonstrable prejudice. In the absence of substantive evidence, the allegations of cartelisation remains in realm of conjecture and cannot be a ground for judicial interference in present factual matrix.

50. It is well settled that suspicion, however strong, cannot take the place of proof. Allegations of cartelisation are serious in nature and must be supported by clear and cogent material. In the present case, what is shown is at the highest a possibility arising out of relationship and some overlapping resources, but that is not sufficient to conclude that the tender process was vitiated by collusion.

51. The sequence of events indicate that the technical evaluation was conducted, the decisions were recorded and the results were uploaded on the official portal,

thereafter financial bids of eligible bidders were opened. No material irregularity has been demonstrated in the conduct of the process. The petitioner's assertion that it would have emerged as a lowest bidder is speculated and cannot form the basis for invalidating the tender. Respondent nos. 1 to 3 have raised an objection regarding delay. While there is some delay in approaching this Court, the same in facts of the present case is not of such magnitude so as to non-suit the petitioner. However, this aspect does not advance the case of the petitioner on merits.

52. The public interest in timely execution of essential works, particularly those relating to infrastructure and road safety is also relevant consideration which cannot be over looked.

53. In view of the aforesaid analysis, this Court concludes that the rejection of the petitioner's technical bid is based on reason and objective assessment of documents and does not suffer from arbitrariness, irrationality or perversity. The interpretation of clause 3(3) adopted by the respondent nos. 1 to 3 is a possible interpretation, consistent with the purpose of the eligibility criteria. The petitioner was afforded a fair opportunity to cure deficiencies and no violation of principles of natural justice is made out. The allegations of *mala fides*, bias and cartelization are unsubstantiated and unsupported by cogent material on record. The tender process, when viewed as a whole, satisfies the requirements of fairness and transparency and non-discrimination. It is trite law that in commercial matters of this nature, the Court must exercise restraint and defer to the wisdom of the administrative authority, unless the decision is shown to be palpably arbitrary or illegal. No such case is made out in the present matter.

54. In view of the foregoing discussions, we are of the considered opinion that it would neither be appropriate nor proper for this Court to interfere with the impugned decision in exercise of the writ jurisdiction under Article 226 of the Constitution, particularly having regard to the well settled parameters governing the exercise of jurisdiction in matters relating to the award of public contracts. With these observations and findings, the writ petition is dismissed. There shall be no order as to costs.

55. Rule stands discharged.

[NIVEDITA P. MEHTA, J.]

[URMILA JOSHI PHALKE, J.]

After the pronouncement of the judgment today, the learned Counsel Ms. Radhika Bajaj for the petitioner prays to stay the operation and effect of the judgment. No exceptional or compelling circumstance have been pointed out which would justify staying the operation and effect of the judgment. Moreover, granting of stay would amount to grant of very relief which has already been declined by the Court. Hence, the prayer is rejected.

[NIVEDITA P. MEHTA, J.]

[URMILA JOSHI PHALKE, J.]