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WP-45232-2025

IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE SANJEEV SACHDEVA,
CHIEF JUSTICE

&

HON'BLE SHRI JUSTICE VINAY SARAF

ON THE 3rd OF DECEMBER, 2025

WRIT PETITION No. 45232 of 2025

DILIP SINGH CONSTRUCTION CO.

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

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Appearance:

Shri Rohit Sohgaura - Advocate for the petitioner.

*Shri H.S. Ruprah - Additional Advocate General with Shri Akash Malpani - Advocate for
the respondent/State.*

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ORDER

Per. Hon'ble Shri Justice Sanjeev Sachdeva, Chief Justice

1. Petitioner impugns the NIT advertisement dated 03.11.2025 and detailed NIT dated 05.11.2025. The contention of the petitioner is that the certain conditions have been imposed in the tender document for the first time requiring the bidders to own certain machineries. He submits that there are several machineries mentioned require for completion of work however for certain expensive machineries there is a requirement that the same should be owned by the bidders. He submits that the tender is valued at less than 20 crores and the cost of the machineries is about 2 crores.

2. Learned Additional Advocate General submits that there is no stipulation for contracts where value is less than 2 crores and such a stipulation has been incorporated in contracts where the value is exceeding 2 crores. He submits that keeping in view the past experience of certain contracts being abandoned and not



being successfully performed by the bidders, the said condition has been imposed.

3. Paragraph 4 of the reply which gives the justification for mandating ownership of certain machineries reads as under;

"4. That, the answering respondents most respectfully submits that the reasons for compulsory requirements for four equipments i.e Steel Wheel-Static/Vibratory Roller, Motor Grader , Black Hoe, i.e. mentioned in Annexure -1 (Format 1-5) (A), (B), (C) and also (D) Earth Compactor are as follows:

a) That, it was noted by the department that many contractors were not able to complete the road construction work allotted to them within the timeframe due to lack of ownership of the above-mentioned basic four equipments used in road construction.

b) That, it was also noted that many contractors completed the work but they did not do it in the stipulated time frame, and it was also noted that the quality of construction was sub- standard.

c) That, many a times the contractors are not able to procure enough machines on lease due to their non-availability.

d)That, it is also noted that as the construction of road works are majorly carried out in the non-rainy seasons which results in struggle amongst the contractors to lease the required equipments on time.

e)That, many a times the contractors were not able to pay the - lease rent of the leased equipments due to which the owners took away the leased equipments which resulted into complete halt of road construction works or delayed completion of works.

f) That, it was also noted that the contractors had no control over the rented/leased equipments.



g) That, it was noted that public money was wasted in case of re-tendering of the construction works.

h) That, the rural roads are mostly affected where it has been noted that contractors who do not own basic equipments take tenders and are not able to complete the construction work in stipulated time frame.

i) That, the process of re-tender of the incomplete work in remote rural areas leads to further difficulties where in-spite of floating fresh tenders contractors are not participating in the tender process.

J) That, due to non completion of road work or delay therein great inconvenience is caused to public at large."

4. As per the reply, it is stated that in view of the above noted compelling circumstances the pre qualification has been prescribed to have at least one machine of steel Wheel Static/Vibrator Roller, Motor Grader, Black Hoe, Earth Compactor (small) to be owned so that the road constructions work can be completed within the stipulated time as expeditiously as possible and also with high standered quality as per the specification.

5. Reference may be had to the judgment of Supreme Court in the case of *Michigan Rubber India Ltd. Vs. State of Karnataka (2012) 8 SCC 216, Airport Authority of India Vs. Centre for Aviation Policy, Safety and Research (CAPSR) & Ors. 2022 SCC OnLine 1334*, wherein it is held that the bid inviting authority is the master of determining the terms and conditions of the contract and the Court would not substitute its view merely on the ground that the Court feels some other condition is more beneficial.

6. We may note that the respondents have not imposed a general condition excluding all contracts however, only in contracts where the value exceeds 2



crores such a condition has been imposed and all the bidders who do not own these machineries can always participate in tenders where the estimated work value does not exceed 2 crores.

7. In view of the above, we are of the view that rationale given by the respondents in prescribing the mandatory condition of owning certain equipments is plausible and does not warrant any interference.

8. Since the petitioner admittedly does not own the said equipment, he is not qualified to participate in the subject tender.

9. Consequently, we find no merit in the petition, the petition is accordingly *dismissed*.

(SANJEEV SACHDEVA)
CHIEF JUSTICE

(VINAY SARAF)
JUDGE

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