



**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**

S.B. Civil Writ Petition No. 12559/2025

M/s. Umed Engineering And Construction, Through Proprietor
Shri Umed Singh Sikarwar S/o. Shri Surendra Singh, Aged
About 44 Years, Resident Of A-16, Pushti Vatika, G.i.d.c. Railway
Crossing Manjalpur, Vadodara (Gujrat)-391240

----Petitioner

Versus

1. The State Of Rajasthan, Through Additional Chief Secretary, Department Of Water Resources, Government Of Rajasthan, Secretariat, Jaipur (Raj.)
2. Chief Engineer Cum Additional Secretary, Water Resources Department, Bhawani Singh Road, C-Scheme, Ashok Nagar, Jaipur -302005
3. Additional Chief Engineer, Water Resources Zone, Sinchai Workshop, Near Collectorate Campus, Bharatpur.
4. M/s. Hari Swaroop Sharma, Through Proprietor Hari Swaroop Sharma S/o. Patiram Sharma, 110-A, Gali No.3, Tilak Nagar, Bharatpur (Raj.)

----Respondents

Connected With

S.B. Civil Writ Petition No. 12149/2025

M/s. Umed Engineering And Construction, Through Proprietor
Shri Umed Singh Sikarwar S/o. Shri Surendra Singh, Aged
About 44 Years, Resident Of A-16, Pushti Vatika, G.i.d.c. Railway
Crossing Manjalpur, Vadodara (Gujrat)-391240

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Versus

1. The State Of Rajasthan, Through Additional Chief Secretary, Department Of Water Resources, Government Of Rajasthan, Secretariat, Jaipur (Raj.)
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4. M/s. Hari Swaroop Sharma, Through Proprietor Hari



Swaroop Sharma S/o. Patiram Sharma, 110-A, Gali No.3,
Tilak Nagar, Bharatpur (Raj.)

----Respondents

For Petitioner(s) : Mr.Madhav Mitra, Sr.Adv. With
Ms.Jaya Mitra
For Respondent(s) : Ms.Mahi Yadav, AAG with
Mr.Aditya Godara



HON'BLE MR. JUSTICE SAMEER JAIN

Judgment

RESERVED ON :: 15/09/2025

PRONOUNCED ON :: 23/09/2025

REPORTABLE :

1. Having regard to the fact that the present petitions are founded upon interwoven facts and raise substantially identical questions of fact as well as of law, this Court deems it appropriate to adjudicate upon the same by way of a common judgment. Accordingly, the issues arising therein are being considered and decided together. It is further directed that the conclusions and directions recorded in this judgment shall apply, *mutatis mutandis*, to both the petitions henceforth.

2. The present petitions are filed with the following prayers:

i) By issuing an appropriate writ, order or direction, the order dated 13.06.2025 (Annexure - 4) passed by Procuring Entity be quashed and set aside;

ii) By issuing an appropriate writ, order or direction, the order dated 27.06.2025 (Annexure - 9) passed by First Appellate Authority be quashed and set aside;

iii) By issuing an appropriate writ, order or direction, the order dated 01.08.2025 (Annexure - 11) be quashed and set aside;



iv) By issuing an appropriate writ, order or direction, the Respondents be directed to declare petitioner-Responsive.

v) By issuing an appropriate writ, order or direction, the procuring entity be directed to re-evaluate Technical bid and the results of Technical as well as Financial Bid be declared accordingly.

vi) Any other appropriate writ, order or direction which this Hon'ble Court may deem just and proper in the facts and circumstances of the case may also kindly be passed in favour of the petitioner.

SUBMISSIONS OF LEARNED COUNSEL FOR THE PETITIONER-FIRM :

3. Learned Senior Counsel, Mr. Mahdav Mitra, assisted by learned counsel, Ms. Jaya Mitra, appearing on behalf of the petitioner-firm, argued that the petitioner is a sole proprietorship concern engaged in infrastructure and construction activities, including execution of canals, cross-regulators, roads, bridges, bunds and allied civil works.

4. It was submitted that the procuring entity had issued e-NIB No. 1/25-26 dated 30.04.2025 through the office of the Additional Chief Engineer, Water Resources, Bharatpur. Learned Senior Counsel submitted that as per the terms of the said e-NIB, more particularly Condition No. 4, the bidders were required to file their latest GSTR-3B report along with the bid documents, and the last date prescribed for uploading of bids was 27.05.2025. It was contended that vide the impugned order dated 13.06.2025 (Annexure-4), the procuring entity declared the petitioner-firm as non-responsive.





5. Learned Senior Counsel submitted that the petitioner-firm had preferred first and second appeals assailing the said order. It was urged that in terms of Rules 59, 60 and 61 of the Rajasthan Transparency in Public Procurement Rules, 2013 (hereinafter referred to as 'the Rules of 2013'), the requirement of submitting the said GSTR document was only procedural in nature and could not be regarded as a material deviation, omission or alteration. However, the appellate authorities dismissed the appeals by passing non-speaking orders, sans any consideration of the aforesaid statutory provisions.

6. It was further urged that the petitioner-firm had submitted its GSTR-3B, and in any case, the expression "latest GSTR-3B" was not specifically defined either in the tender document or under the law. Hence, the documents submitted by the petitioner-firm were valid and constituted due compliance with the tender conditions. Learned Senior Counsel further contended that the petitioner-firm was not in any manner benefited by the belated furnishing of the said document, since the firm was duly registered under the GST regime and was regularly complying with its statutory obligations.

7. Attention of this Court was drawn to Rule 59 of the Rules of 2013, wherein a distinction is made between material and minor deviations. It was urged that only deviations which go to the root of the technical and financial aspects of the bid can be treated as material deviations, whereas procedural lapses fall in the category of minor deviations.





8. It was argued that even assuming that the GSTR-3B was not submitted within the prescribed time, the same would at best amount to a procedural lapse, which is curable in terms of the Rules of 2013, and therefore the same could not constitute a valid ground for declaring the bid non-responsive.

9. Lastly, it was submitted that the rejection of the petitioner's bid was actuated by arbitrariness and mala fides, inasmuch as the bid submitted by the petitioner-firm was substantially lower in comparison, and its acceptance would be financially beneficial to the State exchequer. It was, thus, contended that the impugned action stands vitiated for being arbitrary, mala fide and contrary to the spirit of the Rules of 2013. In support of the contentions noted insofar, learned Senior counsel had placed reliance upon a catena of judgments, inter alia, **M/S Bhati Contractor Firm vs. the State of Rajasthan: 2023 RJJD 41803**, **Mahaveer Prasad Sharma Vs. M/S Rakesh Kumar Sikarwar and Ors.: 2024 RJ (JP) 23639** and **Rosmerta Technologies Lit. vs. the State of Rajasthan: 2019 AIR (CC) 674**.

SUBMISSIONS OF LEARNED COUNSEL FOR THE RESPONDENTS :

10. *Per contra*, learned Additional Advocate General, Ms. Mahi Yadav, appearing on behalf of the respondent-State, at the outset, placed reliance upon the bid documents and more particularly upon Condition No. 4 of the e-NIB No. 1/25-26. It was submitted that the procuring entity had consciously mandated the submission of statutory documents, including income-tax records





and GSTR-3B returns, by the last date and time stipulated for submission of bids, i.e., 27.05.2025.

11. Learned Additional Advocate General further drew the attention of this Court to the GSTR-3B return relied upon by the petitioner-firm, which pertained to the financial year 2024-25 for the period ending March, and which was filed on 23.06.2025. It was urged that such filing was beyond the cut-off date prescribed under the tender conditions. Thus, this amounted not only to non-compliance with the tender stipulation but also to an act of concealment, as the petitioner sought to rely upon a return which was not available as on the relevant date.

12. It was further contended that the said requirement under Condition No. 4 was mandatory in nature and constituted a material term of the tender, inasmuch as the submission of the latest GSTR-3B was integral to determining the financial worthiness of the bidder. Thence, non-compliance with such a condition, resulted in material irregularity, thereby justifying the rejection of the petitioner's bid.

13. Learned Additional Advocate General emphasized that the petitioner-firm had admittedly failed to submit the GSTR-3B return within the stipulated time. The last return submitted by the petitioner pertained to March, 2024-25, but the same was filed beyond the permissible period, as the last date for uploading the bid was 27.05.2025. In support of the submissions made insofar, learned AAG placed reliance upon the ratio encapsulated in **Arav Infratech Private Limited v. State of Goa & Ors.: (2021) 1 HCC (Bom) 451**, wherein it was held that non-compliance with





essential conditions of tender cannot be overlooked. Withal, reliance was placed upon the provisions of Rule 59 of the Rules of 2013, to submit that the requirement in question was a material condition, violation whereof rendered the petitioner-firm's bid non-responsive.

14. Learned Additional Advocate General further submitted that the scope of judicial review in tender matters is extremely limited, miniscule and this Court cannot sit in appeal over the decision of the tendering authority in contractual matters, unless a patent case of mala fides or arbitrariness is made out, moreover, in the matter at hand no such malafides are reflected. In view of the aforementioned, learned Additional Advocate General prayed for dismissal of the writ petitions filed by the petitioner-firm.

SUBMISSIONS BY LEARNED COUNSEL REPRESENTING

RESPONDENT NO.4 :

15. Learned counsel has contended that, under the tender conditions relating to technical qualification, participation of joint ventures was also permissible. However, for proper appreciation of the matter, it is to be noted that the document submitted by the petitioner-firm, purporting to show annual turnover data for the last seven years, is deficient in material particulars. The said certificate was issued without any indication of the address or specific name of the firm/joint venture in whose favour it was prepared and has merely been issued in a general form, addressed "to whomsoever it may concern."

16. In the present case, the petitioner submitted the said document dated 22.05.2025 along with its technical bid. However,





the certificate does not specify the name of the firm to which it relates. Moreover, the certificate does not bear any reference to GST, PAN or TIN registration numbers of the entity concerned. Prima facie, such a document cannot be treated as reliable or worthy of consideration in a process where eligibility is to be established on the strength of authentic statutory and financial documents. Furthermore, the bona fides of the petitioner-firm are not demonstrated, as the said certificate has not even been annexed with the writ petition for scrutiny by this Court.

17. It was further urged that under Section III i.e. Evaluation and Qualification Criteria, specifically under Point Nos. 1, 2 and 4 read with Point No. 3 (Financial Resources-Requirement), the eligibility condition prescribed by the procurement entity clearly mandates that, in order to qualify in the technical bid, a bidding firm must possess an experience of seven years, reckoned from 01.05.2018 to 30.04.2025. In this context, it was contended that the bidding firm was required to have been in existence prior to 01.05.2018 or at least as on that date. However, the records reveal that the petitioner-firm was registered with a GST number only on 21.05.2021. It is, therefore, unambiguous that the petitioner-firm could not have acquired the requisite seven years' experience prior to the cut-off date, and consequently, it fails to meet the prescribed eligibility criteria. For the sake of handiness the relevant extract from the e-NIB No. 01/2025-26 is reproduced herein below:





Criteria	Requirement	Compliance Requirement	Documents submission/requirements
3. Financial Resources	<p>Using Form FIN-3 and FIN-4 in section IV (Bidding Forms) the bidder must demonstrate access to, or availability of, financial resources such as liquid assets, unencumbered real assets, line of credit, and other financial means, other than any contractual advance payments to meet:</p> <p>The bidder must have access to bank credit limit (fund and non-fund based) to the extent of minimum Rs.188.71 Lakh (estimated cost 3/Completion period in month). The certificate of credit limit issued by bank shall be of period within 3 months from date of submission of pre-qualification bid.</p> <p>The bidder/ Joint Venture Partner (in case of JV) shall be a profitable firm at least 5 out of 7 financial years. Also, the bidder/each JV partner shall not be under Corporate Debit Restructuring/ Stationary Debit Restructuring during last 7 Financial years. A declaration duly certified & signed by the Chartered Accountant shall be submitted by the bidder along with the bid.</p>	Must Meet Requirement	Form FIN-3 and FIN-4
	<p>Net worth (Latest) The Bidder/one Partner must have a minimum positive net worth of Rs.94.36 Lakh (10% of Bid Amount). A declaration duly certified and signed by Chartered Accountant shall be submitted.</p>	Must Meet Requirement	

4. Experience:

Criteria	Requirement	Compliance Requirement	Documents submission/requirements
1. General Construction Experience	Experience under Contracts in the role of contractor and sub contractor for at least the last Seven year (01.05.2018 to 30.04.2025) , ending on the last day of previous month (30 th April 2025) prior to date of invitation of NIB.	Must Meet requirement	

CONSIDERATION AND FINDINGS

18. Upon an assiduous scanning of the records, considering the contentions made by the learned counsel appearing for the parties, and taking note of the judgments cited at the Bar, this Court at this juncture, prior to commenting upon the merits and





demerits of the matter, deems it apposite to jot down in precise the contentions put-forth by the respective counsel:

18.1 The primary contention raised on behalf of the petitioner-firm is that the requirement of submitting the latest GSTR-3B return under Condition No. 4 of the e-NIB was merely procedural and not a material condition. Therefore, non-furnishing of the same within the prescribed date ought to have been treated as a curable defect. Reliance is also placed on Rules 59, 60 and 61 of the Rules of 2013, to urge that such procedural lapse could not have been made the basis of declaring the bid non-responsive. It was further contended that the orders of the appellate authorities are non-speaking and that rejection of the petitioner's bid has resulted in loss to the State exchequer.

18.2 On the other hand, the stand of the respondent-State, as urged by the learned Additional Advocate General, is that the requirement of furnishing the latest GSTR-3B return by the last date prescribed for submission of bids was a mandatory condition, forming part of the essential eligibility criteria to assess the financial worthiness of a bidder. It is categorically pointed out that the GSTR-3B return relied upon by the petitioner pertains to March, 2024-25 and was filed on 23.06.2025, i.e. beyond the cut-off date. According to the respondents, such non-compliance could not be condoned, as it constituted violation of a material condition of the tender. It was also contended that the scope of judicial review in contractual matters is limited and interference is not warranted.





19. Having considered the rival submissions advanced by the learned counsel for the respective parties and upon perusal of the record, this Court records its observations as under:

19.1 That the last date for submission of the bid, wherein time was the essence of the tender process pertaining to public utility works of the Water Resources Department, was 27.05.2025. The condition No.4 of e-NIB No.1/25-26 dated 30.04.2025 is quoted hereunder for reference:

"4. The Bidders shall have to submit copies of a GST Registration Certificate, Latest GSTR 3B return submitted, Permanent Account Number (PAN) issued by Income Tax Department of India and valid enlistment order."

19.2 The tender condition, as noticed hereinabove, unambiguously cast an obligation upon the bidder to submit the following documents along with the bid:

- (i) Copy of the GST Registration Certificate;
- (ii) Latest GSTR-3B return;
- (iii) Permanent Account Number (PAN); and
- (iv) A valid enlistment order.

19.3 The Technical Evaluation Committee, while considering the eligibility of the bidders, interpreted Rules 59, 60, and 61 of the Rajasthan Transparency in Public Procurement Rules, 2013. Upon such interpretation, the Committee held that the requirement of filing the latest GSTR-3B return was mandatory in nature.

19.4 It has also come on record, that the petitioner-firm submitted the GSTR-3B return belatedly on 23.06.2025, i.e., after expiry of the bid period, and that too for the period March, 2024-25.





19.5 That the impugned order dated 01.08.2025 bearing No.F.2(48)AS/I/Cell/2025/Appeal-II/1310, passed by the Second Appellate Authority, categorically notes that as per the documents examined therein and the facts presented, the appellant therein was required to attach an updated GSTR Form No.3B to the tender documents, however, the present petitioner(s) have failed to comply with the said requisite and therefore, the same were declared non-responsive by the Technical Bid Evaluation Committee.

20. The Court further notes that there is no cogent explanation is made by the learned counsel appearing for the petitioner-firm as to why the return for March, 2024-25 was filed only after a lapse of nearly three months and not within the stipulated time prior to the last date of bid submission.

21. Moreover, in a similar controversy, in **Arav Infratech Private Limited (supra)** the Court has declined to interfere, holding that the requirement of GST compliance was mandatory. The Court therein also ruled that non-acceptance of bids on account of such non-compliance could not be termed as perverse, arbitrary, or mala fide. It was further observed that in the absence of overwhelming public interest or demonstrable mala fides, judicial review was not warranted. For the sake of convenience the relevant extract from the said ratio is reproduced herein below:

"36. It is the case of Respondent 2 that ARN of both the returns i.e. GSTR-1 and GSTR-3B were compulsorily required to be produced as per the tender notice and that the petitioner by not filing the ARN number of GSTR-3B had failed to comply with the said mandatory condition.





37. *In the facts, we are of the opinion, that Respondents 2 and 3 were the best persons to understand and appreciate the requirements and interpret the documents. We do not find any perversity or illegality or mala fides or arbitrariness in the said interpretation. As authors of the tender documents, their interpretation will have to be accepted. Merely because another interpretation is plausible that, by itself, is not a reason warranting interference in the interpretation, in the facts. We also, in the facts, do not see any substantial public interest involved warranting interference in writ jurisdiction, in exercise of our powers of judicial review. It appears that the last date of filing GSTR-3B by the petitioner for September and October 2020 was over and that the petitioner had not filed the said returns at the time when the tender/application was to be submitted for the bid. It also appears that the petitioner had not even submitted the ARN of GSTR-3B for the month of September 2020 when the legal notices were sent by the petitioner to the authorities. Although, mala fides have been alleged, having considered the facts in question, we do not see any mala fides or arbitrariness in rejection of the petitioner's bid on the premise of non-submission of GSTR-3B documents, which according to the respondents was an essential documents of the tender.*

40. *After hearing the learned counsel for the respective sides, we are of the opinion that there is no overwhelming public interest involved in the present case, warranting our interference and for exercising our power of judicial review. In fact, any further delay would cause loss to the public exchequer and delay in commencement of the work.*

41. *Keeping in mind all the aforesaid judgments and the underlying principles laid down therein, we find that there is neither any arbitrariness, irrationality or bias in awarding the tender to Respondents 4 and 5. We are also of the opinion that the authority which has floated the tender, was the best judge of how the condition is to be interpreted and as such, in the facts, the interpretation of the author must be accepted."*

22. This Court further takes note of Rule 59 of the Rules of 2013, which defines the concept of material deviation or omission.





Relevant part of Rule 59 of the Rules of 2013 is quoted hereunder for reference:

*"59. Determination of responsiveness.-(1) xxxxx
(2) xxxxx
(3) A material deviation, reservation, or omission is one that.-
(a) if accepted, shall:-
(i) affect in any substantial way the scope, quality, or performance of the subject matter of procurement specified in the bidding documents; or
(ii) limits in any substantial way, inconsistent with the bidding documents, the procuring entity's rights or the bidder's obligations under the proposed contract; or
(b) if rectified, shall unfairly affect the competitive position of other bidders presenting responsive bids."*

23. Upon due consideration of the aforesaid Rule, this Court is of the considered view that the non-filing of the GSTR-3B return within the prescribed period by the petitioner-firm constitutes a material deviation and omission. Moreover, the same is inconsistent with the bidding conditions and substantially affects the validity of the bid, thereby falling within the ambit of material non-compliance.

24. With regard to the contention advanced by learned counsel for the petitioner-firm that the GSTR-3B return filed for March, 2025 was the latest document, this Court finds the argument untenable. The return, albeit filed, was filed belatedly, i.e., beyond the stipulated bid date, rendering the petitioner firm ineligible. The requirement was duly satisfied by competing bidders, and thus, the petitioner cannot seek exemption from the mandatory tender condition.





25. Moreso, reliance can be placed upon the ratio enunciated in **Jagdish Mandal Vs. State of Orissa and Ors. : 2007 (14) SCC 517**, wherein, it was directed that judicial review should not be exercised in tender matters. The relevant extract from the same is reproduced herein below:

"22. *Judicial review of administrative action is intended to prevent arbitrariness, irrationality, unreasonableness, bias and malafides. Its purpose is to check whether choice or decision is made 'lawfully' and not to check whether choice or decision is 'sound'. When the power of judicial review is invoked in matters relating to tenders or award of contracts, certain special features should be borne in mind. A contract is a commercial transaction. Evaluating tenders and awarding contracts are essentially commercial functions. Principles of equity and natural justice stay at a distance. **If the decision relating to award of contract is bona fide and is in public interest, courts will not, in exercise of power of judicial review, interfere even if a procedural aberration or error in assessment or prejudice to a tenderer, is made out. The power of judicial review will not be permitted to be invoked to protect private interest at the cost of public interest, or to decide contractual disputes. The tenderer or contractor with a grievance can always seek damages in a civil court. Attempts by unsuccessful tenderers with imaginary grievances, wounded pride and business rivalry, to make mountains out of molehills of some technical/procedural violation or some prejudice to self, and persuade courts to interfere by exercising power of judicial review, should be resisted. Such interferences, either interim or final, may hold up public works for years, or delay relief and succour to thousands and millions and may increase the project cost manifold. Therefore, a court before interfering in tender or contractual matters in exercise of power of judicial review, should pose to itself the following questions :***





i) Whether the process adopted or decision made by the authority is mala fide or intended to favour someone.

OR Whether the process adopted or decision made is so arbitrary and irrational that the court can say : 'the decision is such that no responsible authority acting reasonably and in accordance with relevant law could have reached.'

ii) Whether public interest is affected.

If the answers are in the negative, there should be no interference under Article 226. Cases involving black-listing or imposition of penal consequences on a tenderer/contractor or distribution of state largesse (allotment of sites/shops, grant of licences, dealerships and franchises) stand on a different footing as they may require a higher degree of fairness in action."

(Emphasis laid)

26. In light of the aforesaid discussion, this Court finds no ground to interfere in the matter. Consequently, the writ petitions being bereft of any merits are hereby dismissed. The interim orders earlier passed by this Court also stand vacated. A cost of Rs.5,00,000/- (Rs.Five lac only) is imposed upon each petitioner, which shall be paid within an upper limit of 60 (sixty) days from the date of pronouncement of this judgment. The said cost is imposed taking note of the fact that matter at hand pertains to public works, tender applications and due to the actions of the petitioner(s) public interest at large is affected.

27. In view of the dismissal of the writ petitions, the stay applications and all other pending applications also stand disposed of.

(SAMEER JAIN),J

Preeti Asopa

