



CNR: KAHC010460652026

NC: 2026:KHC:36086
WP No. 20811 of 2026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 15TH DAY OF JULY, 2026

BEFORE

THE HON'BLE MR. JUSTICE SURAJ GOVINDARAJ

WRIT PETITION NO. 20811 OF 2026 (GM-TEN)

BETWEEN:

M/S MALAND ASSOCIATES
REPRESENTED BY ITS PROPRIETRESS,
SMT. SAVITHRAMMA,
AGED ABOUT 65 YEARS,
OFFICE AT GROUND FLOOR,
1, JAIN TEMPLE ROAD, KADUR,
CHIKKAMAGALURU, KARNATAKA 577548.

...PETITIONER

(BY SRI. ASHOKA T, ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
REPRESENTED BY ITS PRINCIPAL SECRETARY.
DEPARTMENT OF HEALTH AND
FAMILY WELFARE, VIKASA SOUDHA,
DR. AMBEDKAR VEEDHI,
BENGALURU - 560 001.
2. THE COMMISSIONER
HEALTH AND FAMILY WELFARE SERVICES,
AROGYA SOUDHA, MAGADI ROAD,
BENGALURU 560 023.
3. THE SURGEON
/ CHIEF MEDICAL OFFICER
GENERAL HOSPITAL VIRAJPET,

Digitally signed
by SHWETHA
RAGHUPENDRA
Location: HIGH
COURT OF
KARNATAKA



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KODAGU DISTRICT,
KARNATAKA 571 218.

...RESPONDENTS

(BY SMT. SARITHA KULKARNI, AGA)

THIS WP IS FILED UNDER ARTICLES 226 & 227 OF THE CONSTITUTION OF INDIA PRAYING TO DIRECTION, ENTIRELY QUASHING THE IMPUGNED TENDER NOTIFICATION BEARING. NO. SA.AA.VI/PATHYAHARA/TENDER/01/2026-27 DATED 18.05.2026 ISSUED BY RESPONDENT NO. 3 ANNEXURE-DJ. DECLARING THE SAME AS BEING MANIFESTLY ARBITRARY, ILLEGAL, AND VIOLATIVE OF THE KTPP ACT. 1999. THE KTPP RULES, 2000, AND ARTICLES 14, 19(1)(G), AND 21 OF THE CONSTITUTION OF INDIA AND ETC.

THIS PETITION, COMING ON FOR PRELIMINARY HEARING, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE SURAJ GOVINDARAJ

ORAL ORDER

1. Learned AGA accepts notice for respondent Nos.1 to 3.
2. The petitioner is before this Court seeking for the following reliefs:

"a) ISSUE A WRIT OF CERTIORARI or any other appropriate writ, order, or direction, entirely quashing the Impugned Tender Notification bearing No. Sa.Aa.Vi/Pathyahara/Tender/01/2026-27 dated 18.05.2026 issued by Respondent No. 3 (Annexure-D), declaring the same as being manifestly arbitrary, illegal, and violative of the KTPP Act, 1999, the KTPP Rules, 2000, and Articles 14, 19(1)(g), and 21 of the Constitution of India;



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b) ISSUE A WRIT OF MANDAMUS directing the Respondents to initiate a fresh tender process for the procurement of prepared diet and bread for the year 2026-27 strictly in compliance with the mandatory provisions of the KTPP Act, 1999, the Government Order No. FD 4 PCL 2008 dated 14.10.2008 Annexure -B regarding specific EMD limits, and the Health Department Circular dated 12.03.2024 Annexure-C mandating sample submissions and standard forms;

c) Grant such other and further reliefs as this Hon'ble Court deems fit and proper in the circumstances of the case, to meet the ends of justice."

3. Respondent No.2 had issued a tender on 18.05.2026 through the KTPP portal for supply of prepared meals and high quality bread for the year 2026-27. The estimated annual value was stated to be ₹26,50,000/- The petitioner is before this Court contending that two of the clauses in the said tender notification are arbitrary and not sustainable.
4. Firstly, the clause relating to EMD having been fixed at 2.5% is contrary to the circular dated 14.10.2008 in terms of whereof, it is only for tender valued up to ₹20,00,000/- that an EMD of 2.5% could be imposed and any tender above ₹20,00,000/- up to ₹1 crore the EMD



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which could be collected is 2%. This being a Government Order which had been issued is binding on all the departments including the Health Department and as such, the submission made is that respondent No.2 and respondent No.3 could not have increased the EMD to 2.5%. However, on an enquiry as to whether the petitioner has participated and provided the EMD of 2.5%, the learned counsel for the petitioner submits that the petitioner has participated and for this tender, he has submitted a EMD of 2.5%. But if this aspect were to be repeated by the authorities, it would be difficult for the petitioner and similarly situated persons to participate in those tenders on account of the arbitrary increase of the EMD by 0.5% of the tender value.

5. Secondly, his submission is that for the purpose of financial pre-qualification, the tender prescribes that the balance sheets and audited statement for 3 years from 2023-2024, 2024-2025 and 2025-2026 are called upon to be produced by the respondents. Insofar as the year 2025-2026 is concerned, the petitioner's audit is still not



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completed and as such, the petitioner would not be in a position to present the same. His submission is that the requirement being for 3 years audited statement to be placed on record, the petitioner is willing to place on record the audited statement for 2022-2023, which could be considered by the respondent for the purposes of financial evaluation of the petitioner.

6. Learned AGA on instructions would submit that a Circular dated 21.01.2020 has been issued by the Commissioner, Health Department, whereunder the Commissioner has indicated that for all the contracts the EMD has to be fixed at 2.5%. Insofar as the evaluation is concerned, she submits that evaluation is still going on and if, the petitioner has the audited statement for 2025-2026, the same would be considered, if not, the audited statement if produced for the year 2022-2023 would be considered for the purposes of evaluation.
7. Heard Sri.Ashoka T., learned counsel appearing for the petitioner and Smt.Savitha Kulkarni, learned AGA for the respondents and the perused papers.



8. Insofar as the first contention of the learned counsel for the petitioner is concerned, the same is meritorious, inasmuch as the Government Order dated 14.10.2008 is applicable to all tender documentation by all departments in the State of Karnataka and it is in fact, that Government Order, which is produced before this Court in most matters by the State to contend that the conditions of the tender are as per the Government Order. If that be so, it was for respondent Nos.2 and 3 to comply with the Government Order dated 14.10.2008 and not issue a circular increasing the EMD without the slabs being fixed to 2.5% for all tender documentation.
9. In the present case, the consideration of the said matter though is academic, inasmuch as the petitioner having already submitted an EMD of 2.5%, it would be for respondent Nos.2 and 3 to in future comply with the Government Order dated 14.10.2008 so that these kind of situations do not arise.
10. As regards the second contention of the learned counsel for the petitioner relating to the audited statements,



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again the same is meritorious, inasmuch as the last date for submission of audited accounts to the Income Tax Department is not completed, inasmuch as the petitioner is a proprietary concern and as such, the income tax returns of such proprietrix would have to be filed before 31.07.2026. In the present matter, the tender having been invited on 18.05.2026, the last date of submission being 08.06.2026, is much before the last date of submission of the Income Tax Returns. Of course, it would always be available for an assessee to submit returns on a date prior to the last date, but it would not be permissible for the respondent to indirectly call upon the participants to complete their assessment before the last date of submission of the tender documents.

11. In that view of the matter, wherever the tenderers have submitted their audit statements for the year 2025-2026, that could be taken into consideration. Insofar as the petitioner is concerned, since the audited statements are not available, respondents are directed to consider the audited statement for the year 2022-2023 for the



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financial evaluation. The petitioner to furnish a hard copy of the same to respondent No.3 by the end of the day 16.07.2026.

12. With the above observations, the petition stands ***disposed of.***

**Sd/-
(SURAJ GOVINDARAJ)
JUDGE**

ND
List No.: 1 Sl No.: 31