

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP No.1693 of 2026

Reserved on : 11.08.2026

Decided on : 14.08.2026

Uploaded on: 14.08.2026

M/s R.K. & Company through its proprietor Shri Susheel Kumar

..... Petitioner

Versus

State of Himachal Pradesh and others

..... Respondents

Coram:

The Hon'ble Mr. Justice G.S. Sandhawalia, Chief Justice

The Hon'ble Mr. Justice Bipin Chander Negi, Judge

Whether approved for reporting?¹

For the Petitioner : Mr. Vinod Thakur, Advocate.

For the Respondents: Mr. P.P. Singh, Additional Advocate General,
for respondents No.1 to 3-State.

Mr. Anuj Gupta, Advocate, for respondent No.4.

Bipin Chander Negi, Judge

By way of the present petition, a challenge has been made to the award letter dated 09.01.2026 (Annexure P-9, page 78 of the paper book), whereby tender for providing sanitation services at Pandit Jawaharlal Nehru Government Medical College, Chamba, District

¹ **Whether reporters of Local Papers may be allowed to see the judgment?**

Chamba, H.P. has been issued in favour of respondent No. 4. The challenge to the said award letter is primarily based on the contention that respondent No. 4 is an ineligible bidder. Other than the aforesaid, in the petition, it has been prayed that post-cancellation of award letter, work be awarded in favour of the petitioner, as the petitioner is the next lowest eligible bidder.

2. Heard counsel for the parties and perused the pleadings.

3. In the case at hand, on 22.11.2025, respondent No. 3 had invited tenders through e-tender for providing sanitation services at Pandit Jawaharlal Nehru Government Medical College, Chamba, District Chamba, H.P. Technical bids were opened on 18.12.2025. On opening the same, it was found that out of five firms that had participated, four were technically qualified. The technical evaluation report was uploaded on 29.12.2025. The financial bid of all technically qualified bidders was opened on 01.01.2026. Work thereafter was awarded to respondent No. 4 on 09.01.2026 (Annexure P-9, page 78 of the paper book). Prior thereto, the petitioner had submitted a representation dated 02.01.2026 (Annexure P-8, page 74 of the paper book) to respondent No. 3. In the same, it was contended that respondent No. 4 did not have the requisite experience for providing sanitation services to a 300-bedded hospital.

4. Other than the aforesaid, it was contended that respondent No. 4 had been awarded sanitation work vide letter dated 16.08.2024 in Pandit Jawaharlal Nehru Government Medical College, Chamba without any tendering process. Based on the aforesaid, it was contended in the representation that respondent No. 4, despite not possessing the requisite experience, was being unduly favoured and permitted to participate in the financial bidding without having the necessary requisite technical qualifications. Appropriate action was solicited. A similar representation was made by the petitioner on 05.01.2026 (Annexure P-8 colly, page 76 of the paper book).

5. Thereafter, once work was awarded vide Annexure P-9, i.e., letter dated 09.01.2026 to respondent No. 4, the present petition was filed. In the reply filed by respondents No. 1 to 3 (official respondents), it has been categorically averred that since respondent No. 4 had been providing sanitation services in Pandit Jawaharlal Nehru Government Medical College & Hospital, Chamba since 2017, therefore, respondent No. 3 had issued an experience certificate in favour of respondent No. 4.

6. Respondent No. 4, in his reply, besides submitting that they had been working in the hospital, i.e., Pandit Jawaharlal Nehru Government Medical College & Hospital, Chamba since 2017 insofar as sanitation work was concerned, placed on record experience

certificates (Annexure R-4/3 collectively). One such experience certificate dated 02.09.2025 placed on record at page 111 of the paper-book has been issued by Janakpuri Super Specialty Hospital, as per which respondent No. 4 had provided sanitation service in the said hospital with effect from 01.04.2021 to 31.03.2023. Incidentally, the said certificate had also been placed on record by the writ petitioner as Annexure P-8 (colly), page 69 of the paper-book.

7. The relevant clause of the tender document which pertains to experience is Clause 5(c). The same is being reproduced here-in-below for a ready reference:-

“5. Eligibility Criteria for Participation in the Tender:-

a)

b)

c) ***Experience:-*** *The services provider/bidders should have at least three years experience for providing sanitation services in minimum 300 bedded Hospital/Medical Institution only run by the Central Government/State Government and Hospital/ Medical Institution run by the State Government/ Central Undertakings/Private Health Institution recognized by NMC.”*

8. At this juncture, it would be appropriate to refer to order dated 07.04.2026, wherein the issue which arises for consideration has been noted. The same reads as under:-

“The issue in question is whether the private respondent had the requisite three year experience for providing sanitation services in 300 bedded hospital, as per Clause 5(c) of the Tender Schedule (Page 34). During the course of arguments, it transpires that a certificate dated 2.9.2025 was issued in favour of the said respondent from Janakpuri Super Speciality Hospital (page 69). The case of the counsel for the petitioner now in the rejoinder/replication is that the said condition, as such, has not been fulfilled. The private respondent in response has placed a document dated 16.03.2026 issued by the said hospital, New Delhi showing that Janakpuri Super Speciality Hospital is a 300 bedded. In the aforesaid factual matrix, accordingly let the records of this case be produced. Respondent No.3 shall file a specific affidavit as to how the eligibility of the private respondent was considered while granting the work and finalization of the tender on 01.01.2026 and issuing the necessary allotment on 09.01.2026 (P-9). List on 29.04.2026.”

9. In pursuance to the aforesaid order, respondent No. 3 has filed its affidavit. Relevant portion of the affidavit is being reproduced here-in-below:-

“3. That Respondent No. 4 had submitted along with its tender documents submitted multiple experience certificates including the experience certificate establishing that it has been providing sanitation services at Government Medical Hospital, Chamba. which is a 325-bedded Government hospital, for more than three years. The said experience independently satisfied the

minimum requirement under Clauses 5(c), and the same and other experience certificates were duly taken into consideration by the competent Tender Evaluation Committee while assessing eligibility.

4. That Respondent No. 4 had also submitted, along with the tender bid, an experience certificate issued by Janakpuri Super Specialty Hospital, New Delhi, showing continuous sanitation service rendered by Respondent No. 4 from 01.04.2021 onwards. Janakpuri Super Specialty Hospital is a 300-bedded Government hospital. Although the original submitted with the tender did not expressly mention the bed strength, it nevertheless related to the said hospital, whose 300-bedded status is an existing institutional fact as confirmed from their official website as well.

5. That the certificate dated 16.03.2026 subsequently produced by Respondent No. 4 is only clarificatory in nature and merely procured to specify the already known fact that Janakpuri Super Specialty Hospital is a 300-bedded hospital.”

10. It is a well settled position of law that the terms, conditions of a tender have to be construed from the standpoint of a prudent businessman. Before entering into a contract, a businessman assures himself of the credentials of the person to whom work is sought to be allocated. Other than the aforesaid qua an administrative body functioning in an administrative sphere “free play in the joints” is permissible. In this respect reference can be made to the apex court

judgement in ***New Horizons Ltd. v. Union of India, (1995) 1 SCC***

478, relevant extract whereof reads as under:-

*“17... .. The decisions of this Court, therefore, insist that while dealing with the public, whether by way of giving jobs or entering into contracts or issuing quotas or licences or granting other forms of largesse, the Government cannot act arbitrarily at its sweet will and like a private individual, deal with any person it pleases, but its action must be in conformity with the standards or norms which are not arbitrary, irrational or irrelevant. It is, however, recognised that certain measure of “free play in the joints” is necessary for an administrative body functioning in an administrative sphere [See : *Ramana Dayaram Shetty v. International Airport Authority of India* (SCR p. 1034 : SCC pp. 505-06, para 12); *Kasturi Lal Lakshmi Reddy v. State of J & K*(SCR p. 1355 : SCC pp. 11-12, para 11); *Fasih Chaudhary v. Director General, Doordarshan* (SCR p. 286 : SCC p. 92,); *Sterling Computers Ltd. v. M & N Publications Ltd.*; *Union of India v. Hindustan Development Corpn.* (at p. 513)].*

23.....The terms and conditions of such a document have to be construed from the standpoint of a prudent businessman. When a businessman enters into a contract whereunder some work is to be performed he seeks to assure himself about the credentials of the person who is to be entrusted with the performance of the work.”

11. Admittedly the certificate dated 02.09.2025 issued by Janakpuri Super Specialty Hospital, [placed on record as Annexure P-8

(colly)], page 69 and at page 111 of the paper-book) though specified that respondent No. 4 had provided sanitation service in the said hospital with effect from 01.04.2021 to 31.03.2023 however, conspicuous by absence therein was the bed strength in the Janakpuri Super Specialty Hospital. A fact which in terms of the affidavit filed in pursuance to order dated 07.04.2026 had been confirmed by the tender evaluation committee from the official website as would have been done by any prudent businessman before entrusting work. Therefore, we see no illegality in the same.

12. Besides the aforesaid, respondent No.4 has placed on record a fresh certificate qua experience gained with the Janakpuri Specialty Hospital for the period w.e.f. 01.04.2021 to 31.12.2025 dated 16.03.2026 (Page-293 of the paper book), specifying therein that the hospital in question is a 300 bedded hospital. What is essential herein is the fact that the respondent No.4 has the desired eligibility of having provided requisite services in a hospital at the time of submitting the tender. In the affidavit filed in pursuance to order dated 07.04.2026, specifically from Paragraphs 2 & 3 thereof, it is evident that on the basis of multiple experience certificates filed by respondent No.4 with the tender submitted, respondent No.4 had the requisite qualifications for being eligible to participate in the tender process. Relevant extract whereof reads as follows:-

“

2. That Clause 5(c) of the tender document required that a bidder must possess at least three year's experience in providing sanitation services in a minimum 300-bedded hospital/Medical Institution. It is submitted that while evaluating the bid of Respondent No. 4, the Tender Evaluation Committee examined the multiple experience documents submitted along with the tender bid and found that Respondent No. 4 fulfilled the said condition.

3. That Respondent No. 4 had submitted along with its tender documents submitted multiple experience certificates including the experience certificate establishing that it has been providing sanitation services at Government Medical Hospital, Chamba, which is a 325-bedded Government hospital, for more than three years. The said experience independently satisfied the minimum requirement under Clause 5(c) and the same and other experience certificates were duly taken into consideration by the competent Tender Evaluation Committee while assessing eligibility.”

13. A minor discrepancy qua size of hospital wherein services were provided (300 bedded) in the initial certificate dated 02.09.2025 submitted can always be supplemented by filing fresh proof/certificate to that effect. Proof w.r.t. eligibility pertains to the domain of procedure. [see: **Dolly Chhanda vs. Chairman, Jee and others**, 2005 (9) SCC 779). Even otherwise, from the financial bids placed on record, in the case at hand, it is evident that the petitioner is not L-2 (Annexure R3/1-
Page 208 of the paper book).

14. For the aforesaid reasons the petition being devoid of any merit is dismissed. Pending miscellaneous application(s), if any, shall also stand disposed of.

(G.S. Sandhawalia)
Chief Justice

(Bipin Chander Negi)
Judge

August 14, 2026 *(ks)*