

IN THE HIGH COURT OF TRIPURA
AGARTALA

W.P.(C) No.498 of 2015

M.M. Group,

a Partnership Firm, registered under the Indian Partnership Act, 1932 having Registration No.72364 and its office at DCR Market, MRS Building, 2nd Floor, Post Office and District – Malda, PIN-732101, West Bengal through the authorized representative Sri Uma Sankar Bhaduri, son of late Tarapada Bhaduri holding the post of Technical Advisor of the petitioner

..... **Petitioner**

- V e r s u s -

1. The State of Tripura,

service through its Secretary, Department of Minority Affairs, Government of Tripura, New Capital Complex, Secretariat Building, P.O. Kunjaban, Agartala, PIN-7999006

2. The Director,

Directorate of Welfare of Minorities, Government of Tripura, Old Secretariat Complex, Agartala, Tripura, PIN -799001

3. The Union of India,

service through the Secretary, Department of Minority Affairs, Government of India, 11th Floor, Paryavaran Bhawan, CGO Complex, Lodhi Road, New Delhi - 110003

4. The Bright Future. Com,

a proprietorship firm, represented by its proprietor, namely Mr. Krishna Gopal Mallick, Pragati Plaza, 3rd Floor, Ranchi Road, Purulia, West Bengal, India, PIN-723101

..... **Respondents**

**BEFORE
THE HON'BLE CHIEF JUSTICE MR. DEEPAK GUPTA
THE HON'BLE MR.JUSTICE S. TALAPATRA**

For the petitioner : Mr. K. Jyoti Tewari, Advocate
Mr. P. Majumder, Advocate

For the respondents : Mr. B.C. Das, Advocate General,
Mr. T.D. Majumder, G.A.
Mr. S. Deb, Sr. Advocate,
Mr. B. Majumder, C.G.C.
Ms. A.S. Lodh, Addl. G.A.
Mr. B. Debnath, Advocate

Date of hearing and delivery : **03.12.2015**
of judgment and order

Whether it is fit for reporting :

Yes	No
√	

JUDGMENT & ORDER (ORAL)

(Deepak Gupta, CJ)

The Central Government has a scheme, known as the Multi-sectoral Development Programme, the MsDP in short, run by the Ministry of Minority Affairs, Government of India. The purpose of this programme is to provide vocational training and imparting development skills to the young persons belonging to the minority communities. Funds are provided by the Central Government to the State Governments for implementation of the MsDP. In this regard, we may make reference to the letter dated 28.01.2014, Annexure-R/1 to the reply filed by the Central Government, the Union of India. The relevant portion reads as follows:

***** 2.(ii) The Skill Training Programme should be implemented through reputed skill training organizations which may be empanelled for the purpose of either by the Central Government or the State Government through a transparent process.**

* * * *

*****You may also consult the Department of the State Govt. dealing with the subject of Skill Development.***"**

Along with this reply, there are 3(three) lists attached which given the names of the organizations/institutions/agencies which have been selected for this purpose.

[2] A bare reading of Clause 2(ii) quoted hereinabove, would clearly indicates that the States are required to implement the Skill Training Programmes through reputed skill training organizations. These organizations can be empanelled either by the Central Government or the State Government. It is however, clear that a transparent process has to be followed. The list of organizations/institutions/agencies selected by the Ministry of Minority Affairs, Government of India for 12th Five Year Plan was enclosed and the names are mentioned in the three lists referred to above. A mandate is given to the States to select any organization from these lists based on relevant criteria and after following proper procedure.

[3] According to us, the only interpretation which can be given to this Clause is that the State can only choose one of the organizations/institutions/agencies selected by the Ministry of Minority Affairs, Govt. of India and whose names find mention in one of the three lists and the State cannot choose any other persons. We may however make it clear that if the State after following some proper procedures makes a list of certain empanelled organizations it may have the power to do so. Obviously, the Central Government will

also have some say in the matter and will have to approve the empanelment made by the State. The Central Government is the final authority to decide whether the organization is actually competent enough to carry on this work or not.

[4] Coming to the facts of this case, a notice was published in various newspapers inviting Expression of Interest from the empanelled organizations/institutions/agencies of Ministry of Minority Affairs, Govt. of India for skill development training. The words used are empanelled institutes/organizations. The relevant portion of the Notice inviting Expression of Interest reads as follows:

******* Under the above context, this EOI is invited from the empanelled training institute/organisation to submit technical proposals for imparting skill development training to the minority youths **** .**

*** * * ***

20. REQUIREMENT OF THE TRAINING INSTITUTE/ORGANIZATION.

The following are requirements of the training institute:

A) The Institutes/Organizations shall have minimum 5 years experience.

**B) The Institutes/Organizations shall be empanelled under Ministry of Minority Affairs, Government of India.
* * * ***

K) The institutes/organisation must have to submit supporting documents regarding empanelment of Ministry of Minority Affairs, Government of India for imparting skill development training under MsDP.

Note : The details as mentioned above must be submitted with the bid along with supporting documents. ***"**

[5] After having gone through the letter dated 28.01.2014, we are of the view that these conditions are not strictly in accordance

with the guidelines laid down in the letter dated 28.01.2014. In fact, it is the admitted case of all the parties before us that the Ministry of Minority Affairs, Govt. of India has in fact not empanelled any organizations/institutions/agencies. However, the fact remains that the Ministry of Minority Affairs, Govt. of India has selected certain organizations/institutions/agencies and therefore, those agencies will have to be treated as the empanelled agencies. It is clearly stated that the organizations/institutions shall be empanelled under the Ministry of Minority Affairs, Govt. of India but we have been informed at the Bar that in fact there are no organizations/institutions which have been directly empanelled by the Ministry of Minority Affairs, Govt. of India for this MsDP. The requirement of the notice was also that the organizations/institutions/agencies have to submit supporting documents regarding empanelment by the Ministry of Minority Affairs, Govt. of India for imparting skill development training under MsDP.

[6] It is true that the Ministry of Minority Affairs, Govt. of India has not empanelled any institute or organization under the MsDP but with the letter dated 28.01.2014, the lists of selected skill development organizations have been enclosed. We have been informed that these lists relate to the "*Seekho Aur Kamao*" programme. Be that as it may, once along with the letter dated 28.01.2014 issued by the Central Government these lists are enclosed, the State Governments were bound to follow the said lists. Unfortunately, in the present case in the State of Tripura, the

Director, Welfare of Minorities who considered the expression of interest did not realize that out of 4(four) institutes who had submitted expression of interest, the names of 3(three) institutes did not even find mention in any of the three lists. Despite that and without issuing any corrigendum to the notice or without cancelling the original notice inviting expression of interest and without issuing fresh notice inviting expression of interest, virtually the terms and conditions of the notice inviting expression of interest were changed and tenders have been awarded in favour of four institutions, out of whom only the name of one appears in the list and the other three do not appear in the list.

[7] As far as the petitioner is concerned, his grievance was only against the respondent No.4, Bright Future.Com and it was claimed by the petitioner that Bright Future.Com was not empanelled or approved by the Ministry of Minority Affairs, Government of India and therefore, could not have been awarded the work. On 3rd November, 2015 after hearing the learned counsel for the petitioner, one of us (*S. Talapatra, J*) had issued notice and directed that even if the work order had been issued in favour of the respondent No.4, the same shall not be acted upon by the respondents in future.

[8] After reply was filed, a preliminary objection was raised on behalf of the respondents that the petitioner had challenged the award of work only to one of the selected parties and not to all the selected parties and therefore, the petition should be thrown out. It was stated by the learned counsel for the petitioner that his main

grievance is that the tender of the respondent No.4 does not fulfill the requirement of following the terms and conditions of the notice inviting expression of interest and therefore, he has limited his challenge to the respondent No.4 only.

[9] We had in our order dated 30th November, 2015 had a *prima-facie* found that not only the respondent No.4 but even ECIL/ECIT and KELTRON do not fulfill the essential requirements since the names of these two institutions are also not mentioned in the lists attached with the letter dated 28.01.2014. On 30th November, 2015, learned counsel for the petitioner restricted his challenge only to respondent No.4.

[10] As far as the preliminary objection is concerned, it need not bother us now. The training was to be carried out for a period of three months. The agreements were entered into with all the parties at the end of September or the beginning of October and three months are about to elapse in all the cases and therefore, we do not feel it necessary to deal with the other two institutions who are not parties before us. We, however, cannot throw out the petition only on the ground that the petitioner has challenged award of the works to one institution and not to the others. As far as the respondent No.4 is concerned, reliance has been placed by the respondent No.4 on a Certificate of Empanelment issued by the Aliah University. The relevant portion of which reads as follows:

"This is to certify that Bright Future. Com is empanelled as Vocational Training Providers (VTPs) for imparting skill development training under MsDP Programme, Ministry of Minority

Affairs, Govt. of India against our RFP No.Admn-04/2014-15 dated 08.08.2014."

[11] There is no date on this certificate. This was the certificate which was filed along with the tender documents. We have compared the original documents filed with the tender. That also bears no date. One of the conditions of the tender was that the parties must have 4 to 5 years experience. Therefore, assuming that the empanelment was proper, then also the absence of the date would clearly indicates that the period for which the certificate had been issued could not be determined. We are also of the view that the Aliah University has no right to issue such certificate. No document has been placed before us to show that Aliah University is entitled to empanel any organization. The documents which have been placed before us clearly show that the empanelment/selection should be of the Ministry of Minority Affairs, Government of India. Our attention was drawn to the minutes of the 89th meeting of the Empowered Committee under the MsDP held on 1st September, 2014 in which the following decision was taken:

"Skill Training Project of West Bengal

The EC considered the project proposals of Skill Training Programme submitted by the State Govt. of West Bengal in respect of Minority Concentration Blocks (MCBs) of 14 districts namely, Birbhum, Burdwan, Murshidabad, Nadia, Cooch Behar, North 24 Pargana, South 24 Pargana, Uttar Dinajpur, Dakshin Dinajpur, Malda, Howrah, Jalpaiguri, Medinipur and Darjeeling identified for implementation of MsDP during 12th Five Year Plan under restructured MsDP.

Skill training will be conducted under the aegis of Alliah University by partnering with some private institutes besides some Govt. institute. The total number of courses proposed are 56(fifty six) as per the list in the number. The project has been prepared in accordance with the M.E.S. structure. Expression of Interest for enlistment of Training Partners has already been invited through e-

Tendering process, which will be finalized within August, 2014."

[12] In our opinion, this does not further the case of the State or the respondent No.4 in any manner. These directions have been given specifically in relation to the skill training to be conducted in West Bengal and in particular to 14 districts in the State of West Bengal. What has been stated in the 2nd part is that the skill training which has been conducted under the aegis of Aliah University by partnering some private institutes besides Government institute. This does not authorize Aliah University to issue empanelment certificate. All these decisions indicate that Aliah University will be the main umbrella body in 14 (fourteen) districts of West Bengal and with the help of Aliah University, the skill training programmes under the MsDP shall be conducted. This is not at all relevant for the State of Tripura. As far as the State of Tripura is concerned, that has been specifically dealt with in the minutes of 94th Empowered Committee meeting which have been held much thereafter, the relevant portion of the minutes reads as follows:

******(ii) Skill Training to Minority Youths: The proposal for Skill training for minority youths was received from Govt. of Tripura, for 6776 trainees (616 for 11 trades) from 12 blocks of the State under MsDP. The Empowered Committee considered the proposal and agreed for training in 7 trades only in first stance. The EC agreed to the proposal as follows:**

(i) The agencies for imparting Skill Training would be selected in a transparent manner considering the technical ability of the agency. The agency should have experience of 3-4 years with proven track record. Directorate for welfare of Minorities, Govt. of Tripura will invite proposals from reputed Training Agencies having sufficient experience for providing placement linked Skill Development Training in the listed trades through open tender.*"**

[13] What is stated in sub-Clause (i) of Clause (ii) is virtually a total copy of what was stated in Clause 2(ii) of the letter dated 28.01.2014 except for the fact that the lists are not enclosed herewith. When we read these instructions along with the letter dated 28.01.2014, there can be no manner of doubt that only the organizations/institutions/agencies mentioned in the lists could be selected for the purpose of imparting training to the youth belonging to the minority. The purpose of the scheme is a salutary one. The youth belonging to the minority communities have to be trained and the skill developed so that they can earn their own limit. For such a scheme to be successful, it is essential that the trainers are proficient in their job and know what they are doing. The funds for this scheme are provided by the Central Government which has approved certain bodies to impart training. The letters and instructions quoted hereinabove, leave no manner of doubt that it is only one of these organizations/institutions which can be selected for this purpose unless the State after following a transparent procedure empanels some other agency/organizations. We, therefore, have no doubt in our mind that the Expression of Interest could not have been awarded in favour of the respondent No.4, the Bright Future.Com, ECIL/ECIT and KELTRON. However, ECIL/ECIT and KELTRON are not party before us and the period of three months for which they have to impart training has almost expired. Since more than 2/3rd of the training has been imparted, it would not now be proper to issue notice to them because by that time we hear them, the entire three period of months would have been elapsed. As far as the Bright

Future.Com is concerned, the work order with regard to them has already been stayed and therefore, we have no hesitation in quashing the work order with regard to the Bright Future. Com but we make it clear that they must be made payment for the work already done by them but no further work will be done. As far as the remaining work of the Bright Future.Com is concerned, the State is at liberty to get it done from the only authorized institute i.e. IIIM or from any other authorized institute mentioned in the lists. We will not go into the other aspects of Bright Future.Com in this case.

[14] With these observation and direction, this writ petition is allowed and disposed of.

No costs.

JUDGE

CHIEF JUSTICE

Sujay