

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Petition (C) No.71 of 2016

Chhattisgarh Gramoudyog Garment & Leather Works, 30-A (B.S.P.) Ruwabandha Sector, Bhilai Nagar, District Durg (C.G.) through its Proprietor Ram Narayan Kori, S/o Late Guljar Kori, aged about 48 years, R/o 30-A (B.S.P.) Ruwabandha Sector, Bhilai Nagar, District Durg (Chhattisgarh)

--- Petitioner

versus

1. The State of Chhattisgarh, through the Secretary, Department of Forest, Secretariat, Mahanadi Bhawan, P.S. and Post Rakhi, New Raipur, District Raipur (Chhattisgarh)
2. The Secretary, State of Chhattisgarh, Department of Industry and Commerce, 5th Floor, Secretariat, Mahanadi Bhawan, P.S. and Post Rakhi, New Raipur, District Raipur, (Chhattisgarh)
3. Managing Director, Chhattisgarh State Minor Forest Produce (T&D) Co-operative Federation Limited, A-25, VIP Estate, Near VIP Club, Khamardih, Shankar Nagar, Raipur (Chhattisgarh)
4. Managing Director, Chhattisgarh Khadi Tatha Gram Udyog Board, Praveen Bhavan, 27/520, New Shanti Nagar, Raipur (Chhattisgarh) PIN 492001

---- Respondents

For Petitioner	:	Shri M.D. Dhote, Advocate
For State/Respondents No.1&2	:	Shri Prafull N. Bharat, Additional Advocate General
For Respondent No.4	:	Shri R.S. Patel, Advocate

Hon'ble Shri Navin Sinha, Chief Justice
Hon'ble Shri Justice P. Sam Koshy

Order on Board

Per Navin Sinha, Chief Justice

13/1/2016

1. The Petitioner is stated to be a Unit registered under the Chhattisgarh Gram Udyog Board and also the District Small Scale Industries Centre, Durg. It is aggrieved by the tender notice dated 28.11.2015 published by the Chhattisgarh State Minor Forest Produce (Trading and Development) Cooperative Federation Limited with regard to procurement of ladies walking chappal with direct moulded PU sole.

2. Learned Counsel for the Petitioner submits that the procurement is required to be made in accordance with the Chhattisgarh Shasan Kray Niyam (Store Purchase) Rules, 2002. The tender notice is in violation of the same to the extent that it virtually shuts out small scale industries like the Petitioner by imposing unreasonable conditions *inter alia* of a bidder having a turn over of Rs.45,00,000/- which is not possible for a small scale unit. Earlier also, in similar circumstances, the Respondents had cancelled the tender notice.

3. Learned Counsel for Respondents No.1, 2 and 4 have opposed the writ application submitting that the terms of the tender are not subject to judicial scrutiny. The Court cannot rewrite the terms of the tender. There is adequate provision in Clauses 24 and 26 of the tender notice itself with regard to interpretation of the tender conditions and amendments also if required. According to the pleadings, the Petitioner has already represented on 22.12.2015 though to the Secretary, Small Industries and Trade Department but it is required to represent before Respondent No.3 according to Clause 24 as aforesaid.

4. We have considered the submissions on behalf of the parties.

5. Terms of the tender are not open to judicial scrutiny and cannot be rewritten by the Court. It is for the Respondents to lay down the terms and conditions in the tender notice to their satisfaction. If there are any provisions with regard to small scale industries or preference, it is for the Respondents to consider the same in accordance with law. Clauses 24 and 26 of the notice inviting tender is considered ample opportunity for the Petitioner if it so desired to have represented before Respondent No.3. Representation before an incompetent authority amounts to no representation at all.

6. The last date for submission of the tender was 29.12.2015. The writ application was filed long thereafter on 11.1.2016. The representation filed

on 22.12.2015 is not before Respondent No.3. We are not persuaded to create unnecessary complications in tender matters by judicial orders in exercise of our discretionary power in a writ application filed after the last date for submission of tender.

7. The writ application is dismissed.

Sd/-
(Navin Sinha)
CHIEF JUSTICE

Sd/-
(P. Sam Koshy)
JUDGE