

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 9223 OF 2016

M/s. Real Enterprises.

..Petitioner.

Versus

The Commissioner,
Tribal Development & Others.

..Respondents.

Mr. S. R. Gorwadkar, Senior Advocate with Mr. T. N. Sonawane for the
Petitioner.

Mr. P. P. Kakde, AGP for the State.

Coram : RANJIT MORE &
SMT. ANUJA PRABHUDESSAI, JJ.

Date : **August 10, 2016.**

P. C. :

1. Heard Mr. Gorwardkar, the learned Senior Counsel appearing for the Petitioner. The Petitioner by this writ petition is challenging the eligibility criteria provided in condition No.6 of tender No.5/2016-17 issued by Respondent No.1 on 11th July 2016 whereunder it is made mandatory that the tenderer should have turnover of Rs.10 crores in the past three financial years.

2. By now it is well-settled principle of law that Government and their instrumentalities must have a free hand in setting up terms of the tender and only if they are arbitrary, discriminatory, malafide or actuated with bias, the Court would justify in interfering in the same.

3. The estimated cost of tender is approximately Rs.10 crore and if Respondent No.1 expects that the person participating in the tender must have average turnover of Rs. 10 crore, it cannot be said to be unreasonable. It seems that Respondent No.1 in order to ensure quality of goods and timely supply of woolen sweaters / jersey, which are to be supplied to the students of Government Ashrams, has put up such condition. Reliance placed by Mr. Gorwardkar on the decision of the Apex Court in Reliance Energy Ltd v. Maharashtra State Road Development Corp [(2007) 8 SCC 1] does not take case of the Petitioner any further. In the present case, we do not find that the terms and conditions are vague or uncertain. Hence, the decision of the Apex Court is not applicable to the present case.

4. In the result, writ petition is dismissed.

[SMT. ANUJA PRABHUDESSAI, J.]

[RANJIT MORE, J.]