

(Wp 2141 of 2016)

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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION No. 2141 OF 2016

High-Volt Electricals Pvt. Ltd. And Anr.Petitioners
Vs.
The Development Commissioner (MSME)
and Ors.Respondents

Mr. Rajiv Singh a/w. Nitisha Lad i/b. Crawford Bayley & Co. for
the Petitioners

MR. Amar Mishra -AGP for Respondent No.3

Mr. Ravi Gandhi a/w. Pavitra Pilay i/b. Kanga & Co. for
Respondent No.4

Mr. B.B. Sharma a/w. Dushyant Kumar for Respondent No.9

**CORAM : V.M. KANADE &
C.V. BHADANG, JJ**

DATE : MARCH 31, 2017

P.C. :

1. In our view under Order 13 of Public Procurement Policy, Ministry of Micro, Small and Medium Enterprises, New Delhi, the Central Government is required to constitute a grievance cell. The said Order 13 reads as under:

“13. Setting up of Grievance Cell, % in addition, a 'Grievance cell' will be set up in Ministry of Micro, Small and Medium Enterprises for redressing grivances of

Micro and Small Enterprises in Government procurement. This cell shall take up issues related to Government procurement raised by Micro and Small Enterprises with Departments or agencies concerned, including imposition of unreasonable conditions in tenders floated by Government Departments or agencies that put Micro and Small Enterprises at a disadvantage.”

2. We are informed by the learned counsel for the Respondent Nos. 3 and 9 that so far as the Grievance Cell is not constituted.

3. The controversy, which is raised in this petition is that Respondent No.4 though has applied under the category of Small Scale Unit, in fact, in the past, has applied under the category of Medium Scale Unit and, therefore, is not entitled to apply under the concession which is given for Small Scale Unit.

4. This submission, however, is disputed by the learned counsel for Respondent No.4.

5. In our view, this Court cannot go into the said issue while exercising its writ jurisdiction under Article 226 of the Constitution of India.

6. Respondent Nos. 3 and 9 are under the statutory obligation to constitute the Grievance Cell. In our view, they alone can

decide the said question.

7. We, therefore, direct Respondent Nos.3 and 9 to forthwith constitute the Grievance Cell within two weeks from the receipt of this order. The Petitioners shall make an application to the Grievance Cell within two weeks and the Grievance Cell shall decide the Petitioner's application after giving hearing to them as expeditiously as possible and in any case within a period of four weeks. It is clarified that the allotment of the tender in favour of Respondent No.4 to the extent of 60% of the 20% quota which is earmarked for Small Scale Units subject to the decision of the Grievance Cell and any further proceedings that may follow. All contentions of both the parties are kept open. Writ petition is disposed of in the aforesaid terms.

[C. V. BHADANG, J.]

[V.M. KANADE, J.]