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HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (C) No. 129 of 2018**

Nalorg Marketing Arora Bhavan Fowara Chowk, Manendragarh, Chhattisgarh
Through Its Proprietor Kaushal Arora, S/o Late Shri Karam Chandra Arora, R/o
Arora And Co., Main Road, P. O. Manendragarh, District Korea Chhattisgarh.

---- Petitioner**Versus**

1. South Eastern Coal Fields Ltd. Through Its Chief General Manager, SECL, HQ, Seepat Road, Sarkanda, Bilaspur Chhattisgarh.
2. The General Manager, SECL, Dipka Area, P.O.Dipka, District Korea Chhattisgarh.
3. Staff Officer (MM), SECL, Dipka Area, PO Dipka, District Korea Chhattisgarh.
4. Development Commissioner, Micro Small And Medium Enterprises, Ministry Of Micro Small And Medium Enterprises, Govt. Of India, Nirman Bhavan, 7th Floor, Maulana Azad Road, New Delhi.
5. National Small Industries Corporation Ltd., Through Zonal General Manager, Zonal Office (West), Office No. 505, 5th Floor, Mittal Commercial Building, Wing - B, Village Marol, Off M. V. Road, Andheri (E), Mumbai 400059.
6. M/s Sacaya Technologies Pvt. Ltd. 501, 7th Cross, 7th Main, 3rd Phase, Bangalore - 78.

---- Respondents

For Petitioner	: Shri Kishore Bhaduri, Advocate.
For Respondent/SECL	: Shri Shailendra Shukla, Advocate.
For Respondents No.4 & 5	: Shri Avinash K. Mishra, Advocate.

Hon'ble Shri Ajay Kumar Tripathi, Chief Justice**Hon'ble Shri Parth Prateem Sahu, Judge****Order on Board****01/11/2018****Per Ajay Kumar Tripathi, Chief Justice**

1. Heard counsel for the parties.
2. The earlier contract period more or less will get over soon, therefore, in the fairness of thing, learned counsel for the Petitioner is magnanimous enough not to push the issue for cancellation of the contract at this stage. But he does not give up his grievance, in the manner, in which the Respondent authorities have gone about awarding contract to persons, especially Respondent No.6 in breach, if not in teeth of the mandate laid down in Section 11 of the Micro, Small and Medium Enterprises Development Act, 2006 (hereinafter referred to as 'MSME Act'). Section 11 of the MSME Act lays down procurement preference policy and it warrants giving preference to micro and small enterprises, which are involved in

production and providing goods and services. The object and reasons provided behind the MSME Act are rather detailed, but then, if the Central or State authority or even Public Sector Enterprises loose sight of the object of providing and facilitating promotion and development including enhancing the competitiveness of micro, small and medium enterprises, the very object of this legislation will be defeated.

3. Stand of the counsel for the South Eastern Coalfields Limited ('SECL') is that due to certain misunderstandings or wrong inputs, the earlier NIT was issued, but they have taken remedial measures in a subsequent tender, which is Annexure P/9 to the writ application.

4. Here also, counsel for the Petitioner expresses certain reservations that provision of Section 11 of the MSME Act is being misread deliberately as if non-manufactures or mere providers of service can also be included in the procurement preference policy.

5. The Court would like to clarify that the said section has to be read in the right context. The sentence states “preference policies in respect of procurement of goods and services, produced and provided by micro and small enterprises”, in other words, the procurement of goods and services have to be procured only from micro and small enterprises and not from other sources. The micro and small enterprises have been defined under Sections 2(h) and 2(m) of the MSME Act, therefore, there should be no ambiguity as to what they mean and stand for.

6. Writ stands disposed off with observations as above with a direction upon the Respondents that they must keep the above legislation in mind for future issuance of NIT for procurements or for providing of service.

Sd/-

(Ajay Kumar Tripathi)
CHIEF JUSTICE

Sd/-

(Parth Prateem Sahu)
JUDGE