

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 2725 of 2018**

- M/s. Mahendra Labs Private Limited, Office At No. 371 - 372, 10 Th Cross, 4th Phase, Peenya Industrail Area, Bangalore (Karnataka), Through Its Representative Shyam Sundar Tiwari Son Of Jagdish Narayan Tiwari, Aged About 25 Years, R/o VIP Road, Telibandha, Raipur District Raipur (C.G.)

---- Petitioner**Versus**

- State Of Chhattisgarh Through The Secretary, Health And Family Welfare Department Mantralaya, Mahanadi Bhawan New Raipur District Raipur (C.G.)
- Chhattisgarh Medical Services Corporation Limited, Through Its Managing Director Office At 3rd Floor, Govind Sarang, Vyavasayik Parisar, New Rajendra Nagar Raipur District Raipur Chhattisgarh.

---- Respondents

For Petitioner	:	Shri Keshav Prasad Gupta, Advocate
For Respondent No.2	:	Shri C. Jayant K. Rao, Advocate

Hon'ble Shri Ajay Kumar Tripathi, Chief Justice**Hon'ble Shri Parth Prateem Sahu, Judge****Order on Board****Per, Ajay Kumar Tripathi, Chief Justice****24.10.2018**

1. Rejection of the technical bid of the Petitioner holding him to be ineligible for participating in the tender notice dated 03.07.2018 is the cause of action for the Petitioner to file the writ application.
2. The background facts are that an e-tender was invited for rate contract for supply of veterinary medicines. The one year rate contract related to the year 2018-19. The last date for submission of tender was 04.08.2018.
3. The Petitioner was one of the candidates who bid for such rate contract for supplies. However, he was ousted from consideration for the reason that the Petitioner had not complied with the requirements of the NIT. The reason or the deficiency so found on the uploaded contract has been stated as under :-

“Unit Pack not found for VA3, VA4, VA24, VA34, VA26, VA28,
VA83 & All”.

4. Counsel for the Petitioner submits that they tried to explain the reason for such deficiency on the ground that the Drug Controller of the State where manufacturing is carried out by the Petitioner, they are not bound to manufacture the products in unit packs especially where supplies are being made in the trade circle or for Governmental institutions. But despite that clarity having been offered, the Respondent authorities rejected his tender.

5. The Respondents in their return have taken a stand that besides the other terms and conditions which have been laid down in the NIT, the requirement to indicate the unit pack for the various drug items as contained in Annexure-1 to the NIT has been specified. There is an object and purpose behind the specification in unit pack and if the bidding has not been done as per the specified unit packing of the drug in question, there would be no standardization of evaluation, while making comparative analysis besides the fact that is the requirement of the NIT.

6. If the terms and conditions of the NIT are unambiguous and if the authorities inviting the tender have laid down the parameters including what they want in terms of supplies, the same cannot be altered or modified to suit the modality which is being adopted in manufacture of the drug in question by the manufacturer or may be a supplier.

7. We see no reasons, therefore, to hold that the reason for the rejection of the tender of the Petitioner suffers from irrationality.

8. Writ petition has no merit. It is dismissed.

Sd/-
(Ajay Kumar Tripathi)
Chief Justice

Sd/-
(Parth Prateem Sahu)
Judge