

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.2893 OF 2019

Dated : 13.02.2019

Between:

M/s. Sri Lakshmi Facility Management
Services

.. Petitioner

And

The Government of India,
Ministry of Labour & Employment,
Shrama Shakthi Bhavan,
New Delhi – 110 001,
Rep. by it Secretary and another

.. Respondents



THE HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No. 2893 OF 2019

ORDER :

Heard learned counsel for the petitioner and Sri B.G.Ravinder Reddy, learned Standing Counsel for Employees' State Insurance Corporation.

This Writ Petition is filed challenging the condition imposed in the tender notice providing house keeping and facility management (including pest control) services at ESIC Medical College, Medical College Hospital, Staff Quarters and hostel premises, Sanathnagar, Hyderabad.

The grievance of the petitioner is with reference to the condition in eligibility criteria – I, para 1 wherein minimum average annual turnover is prescribed at Rs.10 crores. According to the learned counsel for the petitioner, the guidelines are prescribed for processing such contracts. According to the eligibility criteria for qualification prescribed in paragraph IV of the guidelines, particularly in para 3, bidder should have an average annual turnover equal to or greater than the Annual Estimated Contract Value. Estimated Contract Value is Rs.5 crores. While so, prescribing average annual turnover as Rs.10 crores is arbitrary and discriminatory. According to the learned counsel, if the annual turnover value is fixed at Rs.5 crores, the petitioner is eligible to participate in the tenders.

From a bear reading of clause 3 under paragraph IV - 'eligibility criteria for qualification' in the Government of India guidelines, it is clear that the minimum turn over required is equal to the contract value or greater than the contract value. Thus flexibility is provided to the employer to prescribe the annual

average contract value equal to the contract value or greater than contract value, as the case may be. Therefore, the E.S.I. Corporation prescribing minimum average annual turn over of Rs.10 crores as eligibility criteria cannot be said to be in violation of the said guideline and cannot be said as amounting to arbitrary exercise of powers. It is for the employer to prescribe eligibility criteria, as assessed by the employer, in formulating the tender conditions and in requiring the prospective applicants to possess the required norms. The court cannot interdict the decision of the employer in prescribing the tender conditions. The principle of law is well settled on this aspect. Hence warrants no interference by this Court.

I therefore, see no merit and therefore, the Writ Petition is dismissed. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this writ petition, shall stand closed.

13.02.2019.
vnb

P.NAVEEN RAO, J