

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (C) No. 2074 of 2020**

Jai Maa Vaishnav Devi Swah Sahayta Samuh, Hathnevra,
Development Block Bamnidih, District Janjgir Champa, Chhattisgarh.
Through Its President Smt. Yashoda Bai, Aged About 42 Years, W/o
Manoj Kumar Patel.

---- Petitioner**Versus**

1. State Of Chhattisgarh Through Its Secretary, Department Of Women And Child Development, Mahanadi Bhawan, Mantralaya, Nawa Raipur, District Raipur, Chhattisgarh
2. Joint Secretary, Department Of Women And Child Development, Mahanadi Bhawan, Mantralaya, Nawa Raipur, District Raipur, Chhattisgarh
3. Collector, Janjgir Champa, District Janjgir Champa, Chhattisgarh
4. District Programme Officer, Department Of Women And Child Development, District Janjgir Champa, Chhattisgarh
5. Project Officer, Integrated Child Development Scheme, District Janjgir Champa, Chhattisgarh

---- Respondents

For Petitioner	:	Mr. Animesh Verma, Advocate
For State	:	Mr. Sudeep Verma, Dy. Govt. Advocate

Hon'ble Shri Justice P. Sam Koshy**Order On Board****24.09.2020**

1. The challenge in the present writ petition is to the guidelines framed by the State Govt. in respect of Ready to Eat Scheme pertaining to midday meals being provided in the Anganbadies in the State of

Chhattisgarh. The challenge is also to the notice Annexure P-2 and the fresh advertisement Annexure P-3.

2. It is a case where the petitioner society was awarded a contract for arrangement of meals under Ready to Eat Scheme in the year 2009 for a period of one year. However, from time to time the work order of the petitioner got renewed and in the year 2015, the work order of the petitioner was renewed for a period of 5 years from 31.10.2015 to 30.10.2020. That since the said contract is coming to an end on 30th of October, 2020 and therefore, the respondent authorities have taken steps for fresh allotment of work order for which an advertisement has been issued vide Annexure P-3. At the same time, a notice Annexure P-2 has also been issued to the petitioner intimating that the contract period is coming to an end on 31st of October, 2020. It is here that the petitioner is aggrieved of and has filed the present writ petition primarily challenging the guidelines in respect of the selection of agencies to provide Ready to Eat food materials.
3. The challenge is on the ground that there is no preferential bonus marks given to the agencies like the petitioner, which have long experience of performing the said nature of work, without any complaint whatsoever. Counsel for the petitioner submits that the petitioner is a "Women Swah Sahayata Samuh" and much investment has been made by the petitioner during 2009 to 2020 for betterment of the petitioner society and its members. Therefore, they should have got some bonus marks for the experience that they have with which they would have always had an upper edge in getting selected in the fresh selection that the Department would be making.

4. Counsel for the State opposes the petition and submits that it is a case where the petitioner should not have any preference for the reason that right from 2009 the petitioner's claim has been renewed by the Department periodically which itself shows that the respondents never had any vindictive approach towards the petitioner. He submits that Annexure P-2 is only a notice intimating the petitioner about the contract period coming to an end on 31.10.2020 and Annexure P-3 is only an advertisement which has been published for selection of new agencies. According to the State counsel, in the fresh selection, as per the advertisement Annexure P-3, the petitioner has also a right to participate and the petitioner's case shall be considered on its own merits, therefore, there is no disadvantageous position as of now created by the respondents from the said guidelines. He further submits that it is a case where all the interested participants shall be gauged under the same parameter without any discrimination whatsoever purely in accordance with the guidelines framed by the State Govt. Thus, the State counsel prays for rejection of the writ petition.
5. No doubt, the petitioner in the instant case has worked for about 11 years for the respondents in providing of Read to Eat meals under the said scheme at Block Bamnidih, District Janjgir-Champa. So far as the framing of guidelines are concerned, those are purely administrative decisions taken by the authorities concerned who are incharge of the respective departments. It is always within the domain and prerogative of these authorities or the department or for that matter the State Govt. to frame rules, guidelines, modalities of selection of agencies. It is

always open for the respondents to decide the parameters for selection of a particular agency for a specific purpose. The schemes, guidelines and modalities framed by the State are always with an intention of conducting the selection process in a fair manner wherein all the participants have equal level playing field and there should not be any sort of arbitrariness and discrimination in the process of selection.

6. Once the power of framing of guidelines and schemes are within the domain and prerogative of the State Govt., the High Court in exercise of its power under Article 226 would not have the power to direct the State Govt. to amend the guidelines in a particular manner or for that matter, this Court does not have the power to suggest to have any other condition put with the guidelines unless of course the guidelines framed by the State Govt. are in contravention to any of the statutory provisions or highly discriminatory or is hit by malafides.
7. As regards the grievance of the petitioner in respect of granting of some preferential treatment considering their 11 years of service/experience, this again is a field which needs consideration at the Departmental level and it cannot be determined by the High Court in exercise of its power under Article 226. The petitioner therefore is directed to immediately approach the respondents in respect of their demand for any favourable or preferential treatment qua their experience. On the petitioner's approaching the Department, the respondents are expected to take a decision in this regard strictly in accordance with law at the earliest.
8. Needless to mention that since the present tenure of the petitioner is coming to an end by 31st of October, 2020, the respondent authorities

are expected to take a decision before that.

9. With the aforesaid observation, the writ petition stands disposed of.

**Sd/-
P. Sam Koshy
Judge**

Khatai