

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR**

Writ Petition No.5937/2019

M/s/ Guru Gajanan and Company, through its
authorized Partner Shri Kamal Rameshchandra Taori,
Amravati ...Petitioner

Versus

The State of Maharashtra, through its Secretary, Co-
operation Marketing and Textile Department,
Mantralaya, Mumbai and others ...Respondents

Shri A.S. Dhore, Advocate for the Petitioner

Shri D.P. Thakare, AGP for the Respondent No.1 - State

Shri N.R. Saboo, Advocate for Respondent No.2

Shri P.V. Navlani, Advocate for Respondent No.4.

**CORAM : NITIN JAMDAR AND
ANIL S. KILOR, JJ.**

DATED : 29 JANUARY 2021

P.C.:

Heard learned Counsel for the parties.

2. By this petition, the Petitioner who is an unsuccessful bidder has challenged the auction conducted by respondent Nos.2 and 3 and grant of the tender to respondent No.4 for handling and transport contract for Dhamangaon.

3. Shri A.S. Dhore, the learned counsel for the Petitioner submitted that the main ground of challenge is based on the Respondent No.4 not uploading the Shop Act Licence as per clause 13 of the Tender, which is to be compulsorily uploaded. It is the Petitioner's case that the Respondent No.4 does not fulfill this condition.

4. The reply affidavit is filed by Respondent No.4, wherein the Respondent No.4 has stated as under:

"4. The petitioner has urged in the petition that the answering respondent who is found to be lowest successful bidder does not possessed the Shop Act License. However, it is clarified that the respondent No.4 has intimated the government about its establishment as per the Government Resolution dated 02/02/2018 wherein rules for renewal of Shops license are amended. A copy of Government Resolution dated 02/02/2018 is annexed herewith as Annexure No. X-1.

5. Bare perusal of Rules 8 and 9 of said Government Resolution will revealed that the employer of every establishment engaging less than 10 employee should submit online intimation in Form F of commencement of the business along with requisite documents as specified in part "C" of the schedule. Further Rule 9 reveals that after receiving an intimation in Form F alongwith all the documents, receipt of such intimation in Form G shall be issued to the applicant online and detail there of shall be recorded in register maintain for that purpose Form H.

6. The aforesaid rules are amended and the owners of the shop who have less than 10 employees does nto require to renew their license time and again. As per above referred rules, the shop owners who are having less then 10 employees, they just have to intimate the government about their establishment alongwith the requisite documents as prescribed by the rules. Admittedly the respondent no. 4 herein has only 9 employees working on its establishment and therefore it is not require to renew the license as per amended rules. The respondent No.4 do posses the valid Shop Act License which was duly filed online by the respondent No.4 while submitting the Tender Submission."

5. The renewal of licence and intimation thereof is placed on record. It is informed that there is no interim reliefs in this Petition since August 2019 and the work order is substantially completed and it would expire in September, 2021. The learned Counsel for the Petitioner states that he had to accept the clause 13 of the Tender and the argument on Clause 13 of the Tender would not survive in view of the affidavit in reply filed by the Respondent No.4. In these circumstances, no order is required to be passed.

6. The Writ Petition is disposed of.

[ANIL S. KILOR, J.]

[NITIN JAMDAR, J.]