

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD**

**CIVIL WRIT PETITION NO. 10311 OF 2021**

Prashant S/o Chandrakant Joshi  
Age: 50 years, Occ: ISO  
Consultant/Auditor,  
R/o: Plot No. 71, Nandavan Colony,  
Aurangabad 431001.

**...PETITIONER**

**V E R S U S**

1. The State of Maharashtra  
Through its Principal Secretary,  
Rural Development Department,  
Bandhkam Bhavan, Murzaban Road,  
Fort, Mumbai – 400 001.
  
2. State Project Director,  
Rashtriya Gram Swaraj Abhiyan  
Pune, Sakhar Sankul,  
Shivajinagar, Pune – 5,  
Ground Floor, Sakhar Ayukta,  
Shivajinagar, Pune – 5.

**...RESPONDENTS**

...  
Advocate for Petitioner : Mr.Viveknand V. Gujar  
AGP for Respondent No. 1-State : Mr S.B.Yawalkar  
Advocate for Respondent No. 2 : Mr.P.R.Nangre  
...

**CORAM : MANGESH S. PATIL &  
SANDEEP V. MARNE, JJ.**

**DATE : 26.08.2022.**

**JUDGMENT : [PER : SANDEEP V. MARNE, J.]**

1. Rule.

2. Rule made returnable forthwith. With consent of the learned Advocates for the respective parties, heard finally at the state of admission.

3. By the present petition the petitioner challenges circular dated 20.01.2021 and seeks for removal of condition No. 2 of 50 Crores turn over from annexure 'A' thereof and for directions to the respondents to implement the ISO Certification scheme after such amendment.

4. The petitioner claims to be an expert in ISO Certification with vast experience. A scheme was introduced by the Government vide Government Resolution dated 18.09.2019 for ISO 9001, 2015 Certification for Village Panchyat Institutions. The Village Panchyats had liberty to select the agency of their choice for the ISO Certification, only the condition being such agency should have an experience of 5 years in the Government Organization with sufficient manpower. The petitioner claims to have been engaged in certification of various Village Panchyats on the basis of eligibility criteria provided in the Government Resolution dated 18.09.2019. By issuing circular dated 20.01.2021, the minimum eligibility was prescribed for agencies whose services can be availed by the Grampanchyats. Such eligibility criteria has been prescribed in annexure A to the circular dated 20.01.2021. One of the conditions is that the total turn over of the agency during the preceding 3 years should be

minimum Rs. 50 Crores. Such condition of minimum turn over of Rs. 50 Crores, is challenged in the present petition.

5. Mr. Gujar, learned Counsel appearing for the petitioner submitted that by putting such stringent condition of huge turnover, some of the surviving agencies like that of the petitioner would be completely eliminated. He submits that the imposition of such stringent condition would result in discrimination. He further submits that on account of Covid-19 Pandemic the State Government is not likely to get sufficient agencies with such a high turn over prescribed. He further submits that the prescription of such stringent condition impinges upon the right of the Village Panchyats to choose agency of their choice for ISO certification.

6. Mr. Yawalkar, learned Additional Government Pleader for the State Government and Mr. Nangare, learned Advocate appearing for respondent No. 2 have supported the impugned circular submitting that it is a matter of policy decision and the Court should be loath in interfering in the same.

7. After hearing the learned counsel for the parties, we are of the opinion that it is the prerogative of the State to prescribe a particular criteria for nomination of the agencies for undertaking the exercise of the ISO Certification. What should be the appropriate criteria is some thing

which falls in the realm of policy and this Court should be loath in interfering in the policy decision. No case of arbitrariness, favoritism or malice is made out by the petitioner. In the affidavit-in-reply, filed on behalf of the State Government, it is pleaded as under :

*“I therefore, say and submit that, the requirement of annual turnover for preceding 3 years at a minimum of Rs. 50 crore is so prescribed with an objective to maintain and ensure selection of an agency with sufficient experience, sufficient human monitory resources and as such claim of the petitioner to delete said condition does not merit consideration.”*

8. We are afraid, we cannot go in to the issue of prescription of eligibility criterion for selection of the agency. That is the prerogative of the State.

9. Even otherwise, it is trite that no person has fundamental right to trade or carry on business in the properties or rights belonging to the Government. In this regard, useful reference can be made to the judgment of the Apex Court in the **State of Orissa and Others Vs. Harinarayan Jaiswal and Others (1972) 2 SCC 36**. In paragraph No. 13 it is held as under :

*“Even apart from the power conferred on the Government under Sections 22 and 29, we fail to see how the power retained by the Government under clause (6) of its order, dated January 6, 1971 can be considered as unconstitutional. As held by this Court in Cooverjee B. Bharucha's case (supra), one of the important purpose of selling the exclusive right to sell liquor in wholesale or retail is to raise revenue. Excise revenue forms an important part of every State's revenue. Citizens cannot have any*

*fundamental right to trade or carry on business in the properties or rights belonging to the Government, nor can there be any infringement of Art. 14, if the Government tries to get the best available price for its valuable rights.”*

10. Also the plea of the petitioner appears to be based on legitimate expectation of earning business. The law in this regard is again well settled in **State of West Bengal and Others Vs. Niranjan Singha** (2001) 2 SCC 326 wherein Apex Court has held that

*“the doctrine of “legitimate expectation” is only an aspect of Article 14 of the Constitution in dealing with the citizens in a non-arbitrary manner and thus, by itself, does not give rise to an enforceable right but in testing the action taken by the Government authority whether arbitrary or otherwise it would be relevant.”*

(emphasis supplied)

11. We are therefore not inclined to interfere in the matter. Consequently, we find that the petition is devoid of any merits and the same is dismissed without any orders as to the costs.

12. Rule is discharged.

( SANDEEP V. MARNE )  
JUDGE

( MANGESH S. PATIL )  
JUDGE