

Ct. 05
Item No.11
18.04.2023
(Suvendu)

WPA 9243 of 2023

**The Punjab Homoeopathic Pharmacy & Others
Co-operative Industrial Society Ltd.**

Vs.

State of West Bengal & Ors.

With

WPA 28662 of 2022

**The Punjab Homoeopathic Pharmacy & Others
Co-operative Industrial Society Ltd.**

Vs.

State of West Bengal & Ors.

Mr. Sagar Bandyopadhyay

Ms. Soma Kar Ghosh

.....for the petitioners

Mr. Nilotpal Chatterjee

Mr. Amritalal Chatterjee

.....for the State

Learned counsel appearing for the petitioner submits that there is extreme urgency in the matter since today is the last day of submission for e-tender floated by the West Bengal Ayush Samity for procurement of homoeopathic drugs and medicines for different Ayush units under the Health and Family Welfare Department of the State. The request for bid is dated 24th March, 2023 and the bid was floated on 28th March, 2023.

The submissions made on behalf of the parties including the State respondents indicates that the essential grievance of the petitioner is that the e-tender does not make space for any exemptions to MSMEs. The petitioner claims to be a MSME. Counsel for the petitioner seeks similar order as given on 22nd December, 2022 in WPA 28662 of 2022 whereby the petitioner was permitted to participate in a similar tender floated by the West Bengal Ayush Samity.

Counsel appearing for the State points to the Note appended to Clause 2. VI of the Request For Bid.

Upon considering the said Note it is clear that the e-tender has accommodated exemption from payment of EMD for MSMEs.

WPA 9243 of 2023 is accordingly disposed of with a direction on the State respondents to permit the petitioner to participate in the tender subject to the petitioner being eligible under Clause 2. VI of the RFB. The petitioner's participation shall obviously be in compliance of the overall requirements in the tender documents. Needless to say, the petitioner shall also follow the schedule indicated in the e-tender.

Since counsel appearing for the petitioner submits that the earlier writ petition has become

infructuous as the concerned tender was cancelled, WPA 28662 of 2022 is treated as on day's list and disposed of as having become infructuous.

Urgent photostat certified copy of this order, if applied for, be given to the parties on usual undertakings.

(Moushumi Bhattacharya, J.)