

**BASAVRAJ
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PATIL**

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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 5420 OF 2023

National Management Training
Institute

..... Petitioner

Vs.

The State of Maharashtra & Ors.

..... Respondents

Mr. Amey Deshpande for the Petitioner

Mr. B. V. Samant, AGP for the State

**CORAM: S.V.GANGAPURWALA, ACJ &
SANDEEP V. MARNE, J.**

DATED : APRIL 25, 2023

P.C.

1. The technical bid of the Petitioner is held to be non responsive.

Respondent No.3 is only bidder held to be eligible.

2. The learned Counsel for the Petitioner submits that the Petitioner had complied with all the terms and conditions. Without assigning proper reasons, the technical bid of the Petitioner is rejected. The learned Counsel submits that various objections were raised about the technical eligibility of Respondent No.3 also. However, the same is not considered. The grounds which were raised to hold the Petitioner ineligible also apply to Respondent No.3. The learned Counsel further submits that the case of Respondent No.3 suffers from conflict of interest. The said aspect is also not

considered. Respondent No.3 also engaged in testing of food. In case the work is allotted to Respondent No.3, then Respondent No.3 would also provide the training to cook the food and test the food. The same would amount to conflict of interest.

3. We had heard the matter on 18th April 2023 and upon hearing the contentions, we find that admittedly, the Petitioner failed to submit the turnover certificate certified by the Chartered Accountant with the requisite UD number. Other objections were also raised against the Petitioner. We had kept the matter today, as the objections were raised against Respondent No.3.

4. Today, the learned AGP has placed on record the objections raised and the decision taken by them. Same read thus:

Sr. No.	Objection	Reply
1	Company has not attached Self Attested Tender Form and Corrigendum which clearly shows that the terms mentioned in the tender form are not accepted by the company. Prior also there has been many court instances for the same and is made compulsory do the same.	No such condition is present in qualification criteria as per RFP.
2	Company is the MDM Caterer then how is the company eligible to take part in this tender when the same company is the supplier for the same Mid-Day- Meal scheme. Also the same company is in correspondence with the mid day Meal Scheme from very long time for testing of raw and cooked food samples at district levels.	No such condition is present in qualification criteria as per RFP.

3	Company has done Testing for the same scheme in the year 2021-2022 as on Page No.87 it is mentioned that MDM Separate Call has deducted TDS of Shree Analytical Testing and research Laboratory.	No such condition is present in qualification criteria as per RFP.
4	GST Certificate which is attached is not of Shree Analytical testing and laboratory but in the name of Mr.Arjun Mahajan. The trade name in case of proprietorship also mandatorily needs to be the company's name and not Proprietor's individual Name.	As it is a proprietorship firm, GST certificate of the proprietor with same PAN is accepted.
5	GSTR-1 and GSTR-3B uploaded is not of all 3 yrs as asked in the tender form.	GSTR-1 and GSTR-3B is provided from page no 122 to page no 148.
6	Company registration certificate which is attached is of old address (Mentioned new address by hand)and seems to be invalid)	No such condition is present in qualification criteria as per RFP.
7	As per point no.6.4 of tender form and page no 06 of corrigendum, applicant company should have experience of fostac training on state level but the mentioned company have experience only for district level.	The Bidder has provided experience of training as per Food Safety and Standard Act 2006 in Annexure I and II hence, it may be accepted.
8	The document which is uploaded for fostac ranking is very old. The company's current ranking is 71. (Screenshot of fostac portal attached)	Ranking as per the FOSTAC portal is considered.
9	In balance sheet, page no.44,78 & 110 shows the document is for M/s Shree ATR Labs whereas page No.45, 78 & 110 shows that the document is for M/s ATR Labs. Turnover certificate attached shows document is for M/s Shree Analytical testing and research Laboratory.	Tax audit report with same PAN is attached wherein name of proprietor is mentioned. Also sign and stamp of Shree analytical testing and research lab is provided on these pages.
10	In several documents there is address mismatch like on Udyam certificate there is different address and on GST Certificate there is different address, for which no proper letter is attached.	No such condition is present in qualification criteria as per RFP.

11	In the PPT company has mentioned that they have more than 10+ Trainees on roll with them but in Appendix 3 they have mentioned or only 8 trainers out of which 2 are not available on the fostac portal.	No such condition is present in qualification criteria as per RFP.
12	In the experience part, same work orders are attached by the company and again, also the work orders attached on Page No. 269 and 271 seems to be edited.	Work experience as per Annexure 1 and 2 format as per RFP along with relevant supporting document is considered.

2. Mrs Precision Consultancy Services

Sr.	Objection	Reply
1.	The work orders company has attached is of all only of private trainings and that too the trainee count among all the 3 yrs is too less. The company neither has experience in the Training field nor in the Fostac Trainings.	This point is already considered in report submitted by us.

5. The scope of judicial review in matters of tender is in narrow compass. This Court would only step-in if the decision making process is not adhered to and/or decision taken is arbitrary and unreasonable.

6. It would appear that the objections raised by the Petitioner qua tender of Respondent No.3 are attended to and decided by the Respondents. The Respondent / employer is the best judge to verify whether the terms and conditions are complied with.

7. As the objections have been dealt with by the Respondents, we cannot sit in appeal over the decision taken by the Respondents.

8. One more submission is made by the learned Counsel for the Petitioner that only Respondent No.3 is held to be eligible or other tenderers are held to be ineligible and if only one person is eligible then in that case the Respondents will have to reissue tender notice.

9. The Respondent State authority has to follow the executive instructions in the shape of Government Resolutions issued from time to time. The Respondent State Authority has also to consider the feasibility and the rates quoted by the eligible tenderers and take decision whether to proceed with the tender process or to issue fresh tender. Such decision certainly would be taken by the Respondent Authority on its own merits.

10. With these observations, the Writ Petition is disposed of. No costs.

(SANDEEP V. MARNE, J)

(ACTING CHIEF JUSTICE)