



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

WRIT PETITION NO. 1416/2024

(LEBEN LIFE SCIENCES **VERSUS** THE STATE OF MAHARASHTRA & OTHERS)

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders.*

Court's or Judge's order

Mrs. R.S. Sirpurkar, counsel for the petitioner.
Shri D.V. Chauhan, Government Pleader for the respondent-State.
Shri S.V. Sohoni, counsel for the respondent no.3.

CORAM : NITIN W. SAMBRE AND ABHAY J. MANTRI, JJ.

DATE : MAY 07, 2024

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By speaking order dated February 28, 2024, this Court issued notices to the respondents as against the prayer of the petitioner for quashing and setting aside the Tender dated January 12, 2024 issued by the respondent nos.3 and 4 in the matter of procurement of medical essentials. The prayer is based on the onerous and arbitrary condition incorporated in Clause 16 of the Tender Conditions. The challenge is also to the order dated February 20, 2024 whereby the petitioner came to be disqualified though it is claimed that the petitioner is entitled for the benefit of the decision of the Central Government dated March 12, 2016 modified on February 19, 2019 thereby granting exemption being a Start-up by the Department for Industrial Policy and Promotion.

2. According to the counsel for the petitioner, the incorporation of the condition of granting exemption from necessary experience for a period of five years as a Start-up is onerous as the same should have been in tune with the Notification dated February 19, 2019 issued by the Ministry of Commerce and Industries whereby the petitioner can be said to be considered as a Start-up upto period of ten years from its incorporation/registration being a Private Limited Company. The aforesaid notification issued by the Ministry of Commerce and Industries on February 19, 2019 is claimed to be providing exemption from having the turnover as prescribed in the Tender Conditions being a Start-up.

3. As against above, Shri D.V. Chauhan, Government Pleader would submit that the policy framed by the Central Government as reflected in the notification dated February 19, 2019 is not applicable or accepted by the State Government. According to him, the Tender Conditions cannot be questioned by the petitioner-Firm and it is willing to go on record to the effect that the exemption of ten years as is claimed by the petitioner to be a Start-up from the requirement of turnover as prescribed in the Tender Conditions cannot be relaxed.

4. In the wake of aforesaid, we deem it appropriate to grant time to the respondent-State Government for filing reply thereby dealing with non-applicability of the Notification dated February 19, 2019 being not accepted by the State Government.

5. List the writ petition for further consideration on June 13, 2024.

(ABHAY J. MANTRI, J.)

(NITIN W. SAMBRE, J.)

APTE