

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION NO.5463 OF 2024

1. Pushpanjali Consumer Products Pvt. Ltd.
A company incorporated under the provisions
of Companies Act having their office situated
at 604/B, 6th floor, Kaledonia, Sahar Road,
Off. Western Express Highway, Andheri (East),
Mumbai- 400 069
 - 2 M/s. Figo India Pvt. Ltd.
A company incorporated under the provisions
of Companies Act having their office situated
at 604/B, 6th floor, Kaledonia, Sahar Road,
Off. Western Express Highway, Andheri (East),
Mumbai- 400 069
-Petitioners

Vs.

1. The Union of India
Through the Ministry of Defence
Mumbai Office at
1st Floor, Ayakar Bhavan,
Maharshi karve road,
New Marine Lines, Mumbai-400020
To be served through Government Pleader
High Court (O.S.), Mumbai
2. The Board of Administration
General Manager,
Government of India, Ministry of Defense
Canteen Store Department, Mumbai
having office 'ADELPHI', 119, M.K.Road,
Mumbai-400020.
3. The Assistant General Manager GS
(GP-III) of the Canteen Store Department
Government of India

Ministry of Defense having office
'ADELPHI', 119, M.K.Road,
Mumbai-400 020

4. The Deputy General Manager
Finance and Accounts
Government of India,
Ministry of Defense
Canteen Store Department, Mumbai
having office 'ADELPHI', 119, M.K.Road,
Mumbai-400 020

.....Respondents

**WITH
INTERIM APPLICATION NO.1128 OF 2025
IN
WRIT PETITION NO.5463 OF 2024**

Pushpanjali Consumer Products Pvt. Ltd. & Anr.Applicants

IN THE MATTER BETWEEN:

Pushpanjali Consumer Products Pvt. Ltd. & Ors.Petitioners

Vs.

The Union of India and Ors.Respondents

Mr. Anuj Desai a/w Mr. Karl Tamboly i/by Mr. Jawahar Prajapati,
Advocates for the Petitioners.

Mr. Suresh Kumar, Advocate for the Respondent Nos.1 to 4.

**CORAM : REVATI MOHITE DERE &
DR. NEELA GOKHALE, JJ.**

DATE : 25TH AUGUST 2025.

JUDGMENT:- (*Per Dr. Neela Gokhale, J.*)

1. **Rule.** Rule made returnable forthwith. With consent of the parties, the Petition is taken up for final hearing.

2. By way of this Petition, the Petitioners essentially seek to quash and set aside order dated 30th May 2024 bearing Reference No.4/GS/GP-III/6842-B/385 and order dated 29th July 2024 bearing Reference No.4/GS/GP-III/6842-B/558 and order dated 8th November 2024 passed in Appeal dated 25th July 2024. By the said orders, the Respondents have rejected the request of the Petitioners regarding exemption from providing bank guarantee (BG) as the policy of the Canteen Stores Department ('CSD') does not provide for the same. There are other ancillary reliefs sought as well.

2. The facts of the case in brief are that, the Petitioners are sister companies providing end-to-end business solutions, manufacturing cleaning products and luxury textiles. The Respondent No.1 is the Union of India, the Respondent Nos.2 to 3 are the officials of the CSD in Mumbai. In 2014, the Petitioner No.1 has submitted an application to the CSD for introduction of new inventory items. The said application was approved. Petitioner No.1 submitted a BG for Rs.3 Crores valid for three years. In 2018, the CSD formulated a policy in respect of BG's to be taken from suppliers by way of a Circular No. 5/2018.

3. On 14th July 2021, the Petitioner No.2 submitted a new introduction application to the CSD, which was approved. A BG of Rs.6 Crores valid for three years was furnished. On 13th December 2023, the Petitioner No.1 vide its letter requested the CSD for exemption from BG on the ground that the Petitioners together as sister concerns and had common directors. They also submitted Micro Small & Medium Enterprises (MSME) certificates along with the other documents with the application. They were requested to forward documentary proof of one company having charge over the other. The Petitioners supplied the same. However, despite many follow ups with the CSD, there was no response from the CSD. Finally, on 30th May 2024, the CSD rejected their application for exemption from furnishing BG. There was enquiry in their application however, by orders dated 29th July 2024 and 8th November 2024, the CSD rejected the appeal of the Petitioners seeking the said exemption. It is these orders of refusal to exempt the Petitioners from furnishing BG's, which are assailed in the present petition.

4. The Respondents appeared on notice and have filed their affidavits in reply along with an additional affidavit. The Petitioners

have filed their rejoinder affidavit to the same. Mr. Anuj Desai, learned counsel appeared for the Petitioners and Mr. Suresh Kumar, learned counsel appeared for the Respondents.

5. Mr. Desai submitted that the rejection order is passed without application of mind and is in violation of the BG policy of the CSD itself. The CSD has rejected their request by adopting its overriding power under clause 26 of the policy. Mr. Desai has pointed out that three other companies have been exempted from furnishing BG's and the CSD officials must exercise their discretion uniformly and cannot arbitrarily reject the Petitioners' application. He further states that the Petitioners have met all the obligations and the CSD has not communicated any shortcomings in the same. The record of the Petitioners regarding their reliability and commitment is exemplary and there is no reason to reject their application. He thus, prayed that the petition be allowed.

6. Per contra, Mr. Suresh Kumar has invited our attention to the affidavit of Lt. Col. S. Venkatrama, the official of the CSD in Mumbai. According to the affidavit, the applications of the Petitioners did not meet the conditions of the policy and hence, their request was

rejected. He brought to our attention paragraph 21 of the BG policy, which lays down the conditions to be fulfilled by a supplier seeking exemption of the BG. Paragraph 21(b) provides that wherever the suppliers are already with the CSD for a period of over five financial years, their average annual turnover for the preceding five financial years including the current financial year should not be less than five crores, i.e., total turnover of the past five years must be more than 25 crores. The decision by the Board of Administration, after examining the application and the supporting documents observed that the Petitioner No.1 does not qualify for exemption from furnishing BG since its average annual turnover is less than the minimum prescribed threshold of Rs.5 Crores and the Petitioner No.2 has not been a CSD supplier for at-least five financial years as prescribed by the policy. Further, the BG policy does not cover a situation where two firms have created a charge in favour of each other. Hence, both the firms failed to meet the BG exemption criteria as independent entities and there is no infirmity in the order rejecting the Petitioners' application

7. The affidavit has also given a detailed explanation regarding the allegation made by the Petitioners that three other

companies were granted the exemption despite their similarity in circumstances with the Petitioners. The Respondents have denied the said allegation and the detailed explanation indicates that the circumstances are not similar and hence, are not comparable. Mr. Suresh Kumar contends that notwithstanding that the facts of the Petitioners' case and that of three other companies are not comparable, the policy itself vests discretionary powers in the General Manager, CSD to relax or waive a condition of the policy keeping in mind the Department's larger interest.

8. Admittedly, the Petitioners as independent entities do not fulfill the exemption conditions but fulfill the condition in paragraph number 21 collectively as sister concerns. The Board of Administration confirmed in its order that the Petitioners are separate entities and do not individually meet the eligibility criteria for BG exemption. Mr. Suresh Kumar in fact stated that the application of the Petitioners will be favourably considered as soon as they meet the eligibility requirement.

9. At the outset, the Petitioners have not challenged the exemption of BG policy of the CSD. Paragraph 21 of the policy

clearly lays down the condition to be fulfilled to seek exemption from providing BG. The order impugned herein clearly denotes application of mind as there is a clear discussion on the financial status of the Petitioner companies and the conclusion drawn indicates that the Petitioners independently are not found eligible for exemption as sought. In any case, it is settled law that Courts must not interfere with the Government policy unless the same is demonstrably arbitrary, capricious, discriminatory or violative of constitutional or statutory mandates. Since the Petitioners have not assailed the policy itself we have not gone in to the merits of the policy. The Petitioners have assailed the application of the conditions necessary to be fulfilled for exemption of providing BG by the CSD officials. However, a plain reading of the policy nowhere demonstrates that two sister companies can be eligible for the exemption even if together they meet condition prescribed in paragraph 21(b) of the policy. The Court cannot read into policy something which is not discernible from the plain reading of the text. The Courts cannot substitute their own interpretation to a non-existent content in the policy simply because there may be a better or wiser alternative to the same.

10 The contention of the Petitioners regarding the CSD officials discriminating the Petitioners from three other companies as alleged by them is not sustainable since the Respondents have given a clear explanation in that regard in its affidavit. The impugned order dated 29th July 2024 has also informed the Petitioner that as far as the precedence as cited by the Petitioners is concerned, the exemption granted to the other company is being reviewed and would be regulated strictly in accordance with the policy. Moreover, paragraph 26 of the policy vests in the General Manager of the CSD the right to override any of the provisions in the interest of the Department. Thus, in view of the explanation of the Respondents detailed in its reply affidavit regarding the allegation of discrimination, we do not find any infirmity in the orders impugned by the Petitioners. There is no violation of any fundamental right of the Petitioners. Even otherwise, there is no challenge to the BG policy of the CDS.

11. In view of the aforesaid discussion, the Petition is dismissed.

12. Rule is accordingly discharged.

13. Since the Petition itself is disposed of, nothing survives in the Interim Application therein and the same is also disposed of.

(DR. NEELA GOKHALE, J.)

(REVATI MOHITE DERE, J.)

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signed by
SHAMBHAVI
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