



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

WRIT PETITION NO. 6781 OF 2024

PETITIONER :

Atpar Vision Foundation
through its Branch Manager
Pravin S/o. Laxmanrao Matankar,
Aged about __ yrs, Occ.: Branch Manager,
R/o Plot No.35, Gurukrupa Layout,
Opp. Medical Square, Nagpur.

V E R S U S

- RESPONDENTS : 1. State of Maharashtra,
through Directorate of Economics and
Statistics Government of Maharashtra
Mantralaya,
Mumbai – 32.
2. The Selection Committee,
Through Additional Chief Secretary,
Planning Department
Government of Maharashtra,
Mantralaya, Mumbai – 32.

Shri Yash Kullarwar, Advocate h/f Shri M. Anilkumar, Advocate for
petitioner.

Shri N. S. Rao, Assistant Government Pleader for respondent Nos.1
and 2.

CORAM: SMT. M. S. JAWALKAR AND
PRAVIN S. PATIL, JJ.

JUDGMENT RESERVED ON : 05/08/2025

JUDGMENT PRONOUNCED ON : 11/08/2025

JUDGMENT : (PER : PRAVIN S. PATIL, J.)

1. Rule. Rule made returnable forthwith. By consent of
learned Counsel for the parties, the matter is taken up for final
disposal.

2. By this petition, the petitioner questions the Government Circular dated 12/09/2024 and meeting minutes order dated 04/10/2023 to 06/10//2023 taken by the committee members, whereby the petitioner has been disqualified from participating in the tender for empanelment of agencies for conducting evaluation studies / type studies / surveys and providing expert services in Statistical and Economic activities on the ground that the petitioner does not have 6 years of expertise experience from B-2 category, as per the terms and conditions of Tender floated by Respondents.

3. In brief, the facts of the case are as under :-

The Directorate of Economics and Statistics, Planning Department, Government of Maharashtra has issued Request For Proposal (hereinafter referred to as “RFP” for the sake of brevity) for empanelment of agencies for evaluation studies / type studies / surveys and providing expert services in Statistical and Economic activities on 03/07/2023. The Directorate of Economics and Statistics is declared as a Nodal Agency and Authority for reference for all statistical matters in the State by Government of Maharashtra. The main function of the Directorate is to collect official statistic data through surveyors, census to analyze the data

so collected, to undertake evaluation studies / type studies / surveys of progress / project implemented in State and other related activities. However, owing to constraints of man power, limited number of evaluation studies / type studies / surveys and with a view to improve the same, RFP intends to Empanelment Agencies / Organizations / Firms / Institutions / Companies, Government Aided / Funded Entities / Research Institutes and Non-Governmental Organizations (NGOs).

4. It is admitted fact that the petitioner is a Company registered under Section 8 of the Companies Act, 2013 and since July, 2017, the company is engaged in the business of doing the government tender as and when the same were published.

5. In response to the Request For Proposal (RFP) for Empanelment of Agencies on 03/07/2023, which contains all the Rules, Regulations and process for bidding for empanelment of Government Agencies, the petitioner applied for the empanelment. It is stated by the petitioner that the tender classified the bidders in two groups. Group-A was consisting of Corporate, Private Companies, Institutions, Firms and Organizations and Group-B was consisting of Academic Research Institutes and NGOs.

6. The petitioner being a Registered Company and Non-Governmental Organization (NGO), it falls in Group-B. The Group-B has further divided in two groups Category B-1 and B-2. The petitioner considered by Respondents under Category B-2.

7. On the basis of criteria laid down in the tender, it is the submission of petitioner that for qualification of tender from Group-B, the eligibility criteria was prescribed for existence of organization for a minimum period of 5 years. As such, considering the fact that the petitioner – company submitted its bid for RFP dated 04/08/2023, qualified in Category B-2 and therefore, their bid should not have been rejected.

8. Per contra, the respondents by their affidavit dated 15/01/2025 came with a submission that as per Clause 4.3 wherein pre-qualification criteria for empanelment of Group-B is prescribed, according to the said criteria, the existence of company should be for a minimum period of 6 years as on 31/03/2022. However, petitioner did not satisfy the said criteria and therefore, the decision of not considering the empanelment of the petitioner company is justified in the matter.

9. In the light of submissions made by both the parties in the matter, we have perused the record and further gone through the terms and conditions prescribed in the tender for empanelment of agencies dated 03/07/2023.

10. For the convenience and to understand the grievance of the parties, the relevant portion of the tender is reproduced as under :-

Group B : Academic / Research Institutes / NGOs :

iii] Category B1 : Academic/Research Institutes

a] Academic Institutes.

b] Research Institutes.

Both a) and b) should have capabilities

* to provide expert services in statistical and economic activities.

* to undertake evaluation studies / type studies / surveys.

* should have at least B + grade accreditation of NAAC

iv. Category B2 : NGO

* to provide expert services in statistical and economic activities.

* to undertake evaluation studies / type studies / surveys.

Government aided / funded entities such as Universities and Colleges functioning at state or local level and Deemed Universities / Academic / Research Institutes will be empaneled directly on submission of authorization / no objection certificate from the Registrar / Administrative Dept. of respective entity. If two or more departments from same entity (Government aided / funded entity, Deemed University / Academic / Research Institute), are interested in empanelment, in such a case these departments should submit their proposal through their Registrar or In charge of institute. More than one proposal from same institute will not be entertained. Different departments of the same Academic / Research Institutes will not be treated as separate agencies / entities. **DES reserves right to empanel Government aided / funded entity, Deemed University / Academic / Research Institute by invitation.**

3.6 Conditions of Minimum Eligibility of Applicants.

To be eligible for evaluation of its proposal, the Applicant shall fulfill the following :-

(A) Technical Capacity : The Applicant must be a legal entity as per applicable laws; Individuals are not eligible to participate in this RFP. The Applicant from Category A1 of Group A shall have,

over the past **five** years undertaken a minimum of **six** projects as specified in Clause 4.1, of which at least two projects should be at national / international level. The Applicant from Category A-2 of Group A shall have, over the past six years undertaken a minimum of three projects as specified in Clause 4.2. The applicants from Group B should be in existence for a minimum period of **five** years. The Applicant should not have been debarred or blacklisted by the GoI, by GoM, or any State Government / Semi-Government, a Statutory Authority, or a Public-Sector Undertaking, from participating in any assignment.

(B) Financial Capacity : The Applicant in Category A1 of Group A must be in profit in any of the three **financial years from** 2017-18 to 2021-22 and must have an aggregate turnover **of minimum Rs.5 Crore** in last five years from 1st April, 2017. The Applicant in Category A2 of Group A must be in profit in any of the **three financial years from** 2017-18 to 2021-22 and must have an aggregate turnover **of minimum Rs.50 Lakh** in last five years from 1st April, 2017.

(C) Availability of Key Personnel : Upon empanelment and subsequent award of the Project, the Applicant shall offer and make available all Key Personnel meeting the requirements as shall be specified in the Project RFP.

(D) Conditions of Eligibility for Key Personnel : Each of the Key Personnel working on the Project must fulfil the Conditions of Eligibility specified in the Clause 4 and 5.

4.3 Pre-Qualification criteria for empanelment of Group B.

	Pre-Qualification Criteria	Documents required for substantiating pre-qualifying criteria
1	i] The participating entity must be government aided/funded entity (such as Academic Institute, Research Institute, Universities, Colleges), Deemed universities / Academic / Research Institute and should be in existence for a minimum period of six years as on 31 st March, 2022 in India. Such institution should have at least B+ NAAC accreditation.	Relevant evidence (such as Copy of Affiliation / Registration Certificate).
	ii] In case of NGOs the participating entity must be registered under Societies Registration Act and must be enlisted on http://www.ngodarpan.gov.in and should be in existence for a minimum period of six years as on 31 st March, 2022 in India.	Relevant evidence (such as Copy of Registration Certificate, etc.)
2	The participating entity that is government aided / funded entity (such as Universities, Colleges) must be funded by Government on regular basis (for overall functioning and not for specific purpose / short duration) at state-level or local-level. OR	Copy of Government Order by which funds are sanctioned by the Government. No. of years for which participating entity is funded by Government. Self-declaration in the specified format (10.9 Annexure IX : Self declaration letter regarding Government funding on regular basis for Group B bidder (Only for Government aided / funded entities such as Universities and Colleges).
	The participating entity is Deemed university / Academic Institute / Research Institute	OR Copy of Relevant document about declaration of deemed.

3	The participating entity should have completed minimum three projects in the business of conducting evaluation studies / type studies, surveys, providing consultancy in statistical & economic matters during the period 2017-18 to 2021-22 (financial years) of which at least one project should be at national / international level.	Copy of work orders in the name of the concerned entity or its team member(s) representing the entity to support this criterion.
4	The participating entity should have a least three members team comprising of the following expertise : A. i. Qualified Statistician (Post Graduate in Statistics). ii. Qualified Economist (Post Graduate in Economics). iii. Qualified Social Scientist (Post Graduate in Social Science / Social Work). B. At least one expert should be well conversant (Speak / Read / Write) with Marathi language.	Self-declaration Certificate from Registrar / Administration of the entity in the given format (10.13 Annexure XIII : Format for Certification by Group B Bidder's Registrar / Administration).
5	The Bidder should not have been blacklisted by Central / State Government / any government agency in India at the time of submission of the Bid.	Affidavit by bidder as per format given in this RFP document (10.9 A Annexure IX A : Declaration formation for not being blacklisted for Group B bidders)

11. It is undisputed fact that the objective of the empanelment is to empanel Corporate, Private Companies, Institutions / Firms / Organizations and Government Aided / Unaided Entities and Deemed Universities / Academic / Research Institutes and NGOs which are functioning in the domain of conducting evaluation studies / type studies / surveys in India. In

pursuance of the said object, key benefits are that there will be reduction in the time taken to complete the tendering process by individual government agencies and enable government to conduct more evaluation studies / type studies / surveys at large scale covering various development sectors. It will also facilitate services of the expertise in Statistical and Economic activities of Government of Maharashtra by Private / Academic Institutions participation.

Hence, considering the object of empanelment, the terms and conditions stipulated for eligibility criteria is required to be considered in the matter.

12. In the present case, it is admitted fact that the request for proposal for Empanelment of Agencies was published vide Notification dated 03/07/2023. As per the schedule given in the tender, the last date for receipt of RFP application was 04/08/2023 and opening of the proposals received in response to the RFP notice was 08/08/2023. In the present case, admittedly Petitioner Company applied it's bid well within time limit.

13. It is clear from the record that considering the date of registration of the petitioner – company vide Certificate of

Incorporation issued by the Ministry of Corporate Affairs, company was incorporated on 10/07/2017. As such, considering the existence of petitioner – company from said date and till the last date of filing of tender i.e. 04/08/2023, it is clear that petitioner - company has completed 5 years period.

14. As per the conditions of minimum eligibility of applicants as reproduced above under clause 3.6 of RFP, it is clear that the different eligibility criteria was prescribed for Category A-1 and A-2 of Group-A and Group-B. For the applicants from Category A-1 of Group-A, it is prescribed that applicant in the last 5 years should undertake a minimum of six projects as specified in Clause 4.1, of which at least two projects should be at National / International Level.

For the applicants from Category A-2 of Group-A should have over the past six years, undertake a minimum of three projects as specified in Clause 4.2 of RFP.

And for the applicants from Group-B only prescribed criteria is that it should be in existence for a minimum period of 5 years.

As such, from this eligibility criteria, it is crystal clear that for the applicants from Group-B, their existence was required

for a minimum period of 5 years. No cut off date is prescribed for consideration of the eligibility in the said clause. Nor any other criteria is prescribed in terms of Clause 4.1, like the applicants from Group-A-1 and A-2.

15. In view of minimum eligibility criteria under Clause 3.6 of Tender, the petitioner company found to be eligible to participate in Tender process. However, Respondents relied upon the Clause 4.3 which prescribed pre-qualification criteria for empanelment. However, according to us, Clause 4.6 cannot be considered in isolation. We have noticed from the Clause 3.6, that for Group-A category, the criteria under Clause 4.2 made applicable but no such criteria is made applicable for Group-B category.

16. In this regard, we have put specific query to the learned Assistant Government Pleader appearing for the respondent Nos.1 and 2 as to how there is different criteria prescribed for the NGOs in the matter. However, he candidly admitted that there is contradictory qualification for considering the eligibility of the applicants applying from Group-B. But the said ambiguity was not clarified by issuing any corrigendum in the matter.

17. In the facts and circumstances of the matter, considering the object for which the empanelment is provided, we are of the opinion that the conditions of minimum eligibility prescribed under clause 3.6 of RFP is required to be accepted because the same is more specific and category-wise eligibility is prescribed therein. The criteria prescribed under Clause 4.3 relied by the respondents, cannot be considered and applicable for the Group-B which is for the category of Academic / Research Institute/NGO as per Clause 3.2.

18. Furthermore, we are of the opinion that the petitioner - company being otherwise eligible and the purpose of the tender is to facilitate the services of the expertise in Statistical and Economic activities and to undertake the evaluation studies, type studies and surveys, it will not cause any prejudice, if the petitioner - company is empaneled for the said purpose. Hence, for the aforesaid reasons, petition deserves to be allowed. Accordingly, we pass the following order :-

ORDER

- i] The writ petition is partly allowed.
- ii] The impugned meeting minutes order dated 04/10/2023 to 06/10/2023 passed by the respondent No.1 to the extent of rejecting the bid of the petitioner for empanelment is hereby quashed and set aside.

iii] The respondents are directed to consider the empanelment of the petitioner in the list of agencies from Group-B category for conducting evaluation studies, type studies, surveys and providing expert services in Statistical and Economic activities in pursuance of the RFP Notification dated 03/07/2023.

iv] Rule is made absolute in above terms with no order as to costs.

[PRAVIN S. PATIL, J.]

[SMT. M. S. JAWALKAR, J.]

Choulwar