



2026:CGHC:16288-DB

AFR**HIGH COURT OF CHHATTISGARH AT BILASPUR****WPC No. 1597 of 2026**

Adhishri Swa Sahayata Samuh Through Its Director Rajni Rajak, W/o Shri Sanjay Rajak, Aged About 39 Years, R/o Jashpur, Tahsil And Distt. Jashpur, Chhattisgarh.

... Petitioner(s)**versus**

1. State of Chhattisgarh Through Secretary, Health Department, Mahanadi Bhawan, Mantralaya, Capital Complex, Naya Raipur, Distt. Raipur, Chhattisgarh.
2. Director Directorate of Health Services, Indrawati Bhawan, Mantralaya, Capital Complex Naya Raipur, Distt. Raipur, Chhattisgarh.
3. Collector Jashpur, Distt. Jashpur, Chhattisgarh.
4. Chief Medical and Health Officer District Jashpur, Chhattisgarh.
5. Civil Surgeon Cum Chief Hospital Superintendent District Hospital Jashpur, Distt. Jashpur, Chhattisgarh.
6. M/s Sushil Mishra S/o Late Murari Mishra Aged About 57 Years Old Toli, Jashpur Nagar, Distt. Jashpur, Chhattisgarh.

...Respondent(s)

(Cause-title taken from Case Information System)

For Petitioner	:	Mr. Anshul Tiwari, Advocate.
For Respondent/State	:	Mr. Shashank Thakur, Additional Advocate General.
For Respondent No. 6	:	Mr. Jitendra Kumar Saxena, Advocate.

Hon'ble Shri Ramesh Sinha, Chief Justice
Hon'ble Shri Ravindra Kumar Agrawal, Judge
Order on Board

Per Ramesh Sinha, Chief Justice

09.04.2026

1. Heard Mr. Anshul Tiwari, learned counsel for the petitioner. Also heard Mr. Shashank Thakur, learned Additional Advocate General, appearing for the State and Mr. Jitendra Kumar Saxena, learned counsel, appearing for respondent No. 6.
2. The present writ petition has been filed by the petitioner with the following prayers:

"i. That, the Hon'ble Court may kindly be pleased to quashing and setting aside the impugned tender process bearing Bid No. GEM/2025/B/7032239 dated 19.02.2026, to the extent it suffers from arbitrariness, illegality, and improper evaluation of the petitioner's bid.

ii. It is most respectfully prayed that this Hon'ble Court may be pleased to issue an appropriate writ, order or direction, including a writ of Mandamus, directing the respondents to re-evaluate the technical bid of the petitioner strictly in accordance with the terms and conditions of the tender

document, particularly by granting the benefit of MSME relaxation and awarding appropriate marks under the turnover criteria.

iii. That, the Hon'ble Court may kindly be pleased to direct the respondents to decide the petitioner's representation dated 26.03.2026 in a time-bound manner, in accordance with the GeM portal guideline.

iv. Any other relief, which this Hon'ble Court deems, fit in the facts and circumstances may also be granted in favour of the petitioner."

3. Learned counsel for the petitioner submits that the petitioner is a Self-Help Group run and managed by women members and has been actively engaged in furtherance of women welfare under various schemes of the Government of Chhattisgarh. It is submitted that the petitioner is also successfully operating a restaurant, namely "Gad Kalewa," at Jungle Bazar, Jashpur, and possesses substantial and longstanding experience in providing food and dietary services.

4. Learned counsel for the petitioner further submits that the respondent authority, namely the Civil Surgeon-cum-Chief Hospital Superintendent, District Hospital, Jashpur, floated a tender dated 19.02.2026 on the GeM portal bearing Bid No. GEM/2025/B/7032239 for providing dietary services, having an estimated value of Rs. 60,00,000/- for a period of one year, with an Earnest Money Deposit

(EMD) of Rs. 60,000/-. As per the eligibility conditions, bidders were required to have a minimum average annual turnover of Rs. 50,00,000/- for the preceding three years. However, the bid document itself expressly and unequivocally provides that if the bidder is a Micro or Small Enterprise (MSE) as per the latest orders issued by the Ministry of MSME, the bidder shall be granted complete relaxation from the eligibility criteria relating to both "Experience Criteria" and "Bidder Turnover," subject to meeting the quality and technical specifications.

5. It is further contended by learned counsel for the petitioner that the petitioner, being a duly registered MSE and holding a valid Udyam Registration Certificate, as evidenced by Annexure P/4, fully satisfied the conditions for availing such relaxation and duly uploaded all supporting documents in proof thereof during the tender process. Despite this, the respondent authorities failed to extend the benefit of such relaxation to the petitioner, in clear breach of the tender conditions. He also submits that the evaluation was conducted on the basis of the Quality and Cost Based Selection (QCBS) method, wherein the petitioner secured a total of 80 marks, including 40 marks under the experience criteria, 10 marks under the turnover criteria, and 30 marks under ISO certification. It is submitted that once the bid document itself granted complete relaxation from the turnover requirement to MSE bidders, the petitioner ought to have either been exempted from such criterion altogether or granted full marks under the turnover component. However, the respondents, in a wholly arbitrary and impermissible manner, awarded only 10 marks, thereby rendering the relaxation

illusory and acting in direct contravention of the tender conditions.

6. Learned counsel for the petitioner would submit that the petitioner raised a detailed and specific representation through the GeM portal on 26.03.2026, pointing out the illegality and arbitrariness in the marking and seeking appropriate rectification. However, the respondent authorities failed to consider the said representation within the stipulated period, in clear violation of Clause 5.2 of the GeM portal guidelines, which mandates redressal within 48 hours. It is further submitted that the respondents subsequently rejected the petitioner's representation vide order dated 30.03.2026 on untenable and extraneous grounds, inter alia stating that the petitioner did not fulfill the turnover criteria and was not entitled to MSME benefits. A copy of the said rejection order has been placed on record.

7. Learned counsel for the petitioner further stated that the reasons assigned in the rejection order are wholly arbitrary, contrary to the express stipulations of the tender document, and demonstrate complete non-application of mind. It is submitted that once the tender itself provides for relaxation to MSE bidders, the respondents could not have denied such benefit by invoking unrelated provisions or by adopting a restrictive interpretation, thereby defeating the very object of the policy. He also stated that although the petitioner was declared technically qualified and permitted to participate in the financial bid, the prejudice caused by the illegal technical evaluation had a direct and determinative bearing on the final outcome. The financial bid resulted in a tie between the petitioner and another bidder, M/s Sushil Mishra, at Rs.

1,09,50,000/-. However, solely on account of the arbitrary and erroneous marking, the said bidder was declared 'H1' and the petitioner was relegated to 'H2'. It is submitted that had the petitioner been awarded rightful marks in accordance with the tender conditions, the petitioner would have been placed in a superior position.

8. Learned counsel for the petitioner submits that the impugned action of the respondents is arbitrary, unreasonable, and amounts to a colorable exercise of power. The respondents, being State instrumentalities within the meaning of Article 12 of the Constitution of India, are bound to act fairly, transparently, and in a non-arbitrary manner. The denial of benefits expressly provided in the tender document is violative of Article 14 of the Constitution of India. He further contended that the respondents have acted in a discriminatory manner in prescribing and applying eligibility conditions. In a similar tender floated for dietary services at District Hospital, Balod, the minimum average annual turnover requirement was fixed at only Rs. 15,00,000/-, whereas in the present tender it has been arbitrarily enhanced to Rs.50,00,000/- without any rational basis. Such inconsistency clearly reflects non-application of mind and renders the condition manifestly arbitrary.

9. Learned counsel for the petitioner also submits that the petitioner had previously been awarded a similar contract for the term 2024–2025, which was abruptly cancelled without issuance of any notice or affording an opportunity of hearing, and the same was set aside by this Hon'ble Court. This demonstrates a consistent pattern of arbitrary conduct on

the part of the respondents.

10. It is thus submitted that the cumulative effect of the wrongful denial of MSME benefits, arbitrary evaluation, rejection of representation on untenable grounds, and discriminatory conditions has vitiated the entire tender process and rendered it unsustainable in law. It is, therefore, prayed that this Hon'ble Court may interfere in exercise of its writ jurisdiction.

11. *Per contra*, learned State counsel, while opposing the writ petition, submits that the tender process has been conducted strictly in accordance with the terms and conditions of the bid document as well as the applicable statutory provisions and procurement rules. It is contended that the evaluation under the QCBS method has been carried out objectively and uniformly for all bidders, without any arbitrariness or discrimination.

12. Learned State counsel further submits that the requirement of minimum average annual turnover has been prescribed keeping in view the financial capacity and operational capability required for executing the contract of dietary services in a government hospital, and such condition cannot be said to be arbitrary or unreasonable. It is contended that the marks under the turnover criteria have been awarded strictly on the basis of the documents submitted by the petitioner, and since the petitioner did not meet the prescribed turnover threshold, only proportionate marks were awarded.

13. It is also submitted that the petitioner was not found entitled to the

benefit of MSME relaxation in terms of the applicable rules governing procurement in the State, and therefore, the claim of the petitioner for grant of full marks or complete exemption was rightly rejected. It is contended that the rejection of the petitioner's representation has been done after due consideration, assigning reasons, and thus does not suffer from any procedural irregularity.

14. Learned counsel appearing for respondent No. 6 adopts the submissions advanced on behalf of the State and, in addition, vehemently supports the action of the respondent authorities, contending that the evaluation process is strictly in consonance with the tender conditions and applicable rules. It is urged that the challenge raised is misconceived, and no arbitrariness, illegality, or infirmity can be attributed to the decision-making process warranting interference by this Court.

15. We have heard learned counsel for the parties at length and have carefully perused the pleadings and documents placed on record.

16. Upon consideration of the rival submissions and on a close scrutiny of the record, this Court finds that the bid document itself unequivocally provides for complete relaxation to Micro and Small Enterprises (MSE) in respect of experience and turnover criteria. The petitioner, being a registered MSE as evidenced by Annexure P/4, was prima facie entitled to avail such benefit. However, the respondents have failed to extend the said relaxation and have instead adopted a course of action which effectively nullifies the very concession expressly

provided in the tender conditions.

17. This Court is of the considered opinion that once a relaxation is consciously incorporated in the tender document, the same cannot be diluted, ignored, or selectively applied at the stage of evaluation. The action of awarding only 10 marks under the turnover criteria, despite the petitioner's entitlement to relaxation, amounts to a patent arbitrariness and defeats the principle of a level playing field in public procurement.

18. The rejection of the petitioner's representation is also found to be unsustainable, inasmuch as it proceeds on grounds which are inconsistent with the tender conditions themselves and fails to address the core grievance of the petitioner. Such an approach reflects non-application of mind and renders the decision-making process legally infirm.

19. In matters of public procurement, the State and its instrumentalities are required to adhere strictly to the terms of the tender and to act in a manner that is fair, transparent, and non-discriminatory. Any deviation therefrom, particularly one that results in prejudice to a bidder, cannot be sustained in law.

20. In view of the aforesaid, this Court has no hesitation in holding that the impugned action of the respondents is arbitrary, violative of Article 14 of the Constitution of India, and unsustainable in law. The entire tender process stands vitiated on account of such illegality.

21. Accordingly, the Notice Inviting Tender (NIT) dated 19.02.2026 bearing Bid No. GEM/2025/B/7032239 is hereby quashed and set

aside. All consequential actions taken pursuant thereto, including the declaration of the respondent bidder as 'H1' and the petitioner as 'H2', are also quashed.

22. It is, however, made clear that the respondent authorities shall be at liberty to initiate a fresh tender process by issuing a new NIT, strictly in accordance with law and the governing tender conditions. While doing so, the respondents shall ensure due and meaningful compliance with the relaxation provisions applicable to Micro and Small Enterprises (MSEs), so as to uphold the principles of fairness, transparency, and equality in the evaluation process, and to ensure a level playing field to all eligible bidders.

23. The writ petition is accordingly **allowed**. No order as to cost(s).

Sd/-
(Ravindra Kumar Agrawal)
Judge

Sd/-
(Ramesh Sinha)
Chief Justice

Head – Note

Courts, under Article 226, ordinarily refrain from interfering in tender matters; however, such restraint yields where State action is arbitrary or contrary to tender conditions. Where a tender grants complete relaxation to Micro and Small Enterprises (MSEs), any dilution at the evaluation stage—by assigning marks under an exempted criterion—defeats the tender and violates Article 14. Such action reflects non-application of mind, vitiates the process, and justifies quashing of the tender with liberty to initiate a fresh process in accordance with law.