

**IN THE HIGH COURT OF JUDICATURE FOR MADHYA
PRADESH AT JABALPUR**

BEFORE

HON'BLE SHRI JUSTICE RAVI MALIMATH,

CHIEF JUSTICE

&

HON'BLE SHRI JUSTICE PURUSHAINDRA KUMAR KAURAV

WRIT PETITION No. 17814 of 2021

Between:-

**LAGHU UDHYOG NIRMATA AVAM VIKRETA
SANGH THROUGH ; ITS PRESIDENT, UDAY
PRATAP SANGH S/O VISHWA NATH SINGH,
AGED ABOUT YEARS, R/O 336, DURGESH
VIHAR, J.K.ROAD BHOPAL, DISTRICT
BHOPAL (MADHYA PRADESH).**

....PETITIONER

**(BY SHRI RAHUL JAIN AND SHRI SUMIT RAGHUWANSHI,
ADVOCATES)**

AND

**1. THE STATE OF MADHYA PRADESH,
THROUGH ITS PRINCIPAL SECRETARY,
REVENUE DEPARTMENT, MINISTRY,
VALLABH BHAWAN, BHOPAL (M.P).**

**2. THE PRINCIPAL SECRETARY, PUBLIC
WORKS DEPARTMENT, GOVERNMENT OF
MADHYA PRADESH, MINISTRY, VALLABH
BHAWAN, BHOPAL (M.P).**

**3. PROJECT DIRECTOR (P.W.D.) PUBLIC
WORKS DEPARTMENT, PIU, RATLAM (M.P).**

**4. DIVISIONAL PROJECT ENGINEER
(P.W.D) PUBLIC WORKS DEPARTMENT, PIU,
RATLAM (M.P).**

**5. COLLECTOR BHOPAL, DISTRICT
BHOPAL (M.P.).**

**6. GODREJ & BOYCE MANUFACTURING
COMPANY LIMITED. PLANT 17,
PIROJSHAHNAGAR, VIKHROLI, MUMBAI
(MAHARASHTRA)- 400079.**

....RESPONDENTS

***(BY SHRI ANKIT AGRAWAL, GOVERNMENT ADVOCATE
FOR RESPONDENT No.1 TO 5, SHRI ADITYA ADHIKARI,
SENIOR ADVOCATE WITH SHRI SATYAM AGRAWAL,
ADVOCATE FOR RESPONDENT No.6 AND SHRI
SAMDARSHI TIWARI, ADVOCATE FOR INTERVENOR)***

Reserved on : 12.01.2022

Passed on : 25.01.2022

PER : JUSTICE PURUSHAINDRA KUMAR KAURAV :

ORDER

The petitioner has challenged the Credential Certificate dated 01.06.2021 (Annexure P/4) issued by respondent No.1 in favour of respondent No.6 and decision dated 04.06.2021 (Annexure P/5) issued by respondent No.3 granting permission to take-up the steps for purchase of furniture through single source i.e from respondent No.6.

2. The petitioner is a Federation of Laghu Udhyyog Nirmata Avam Vikreta Sangh of Madhya Pradesh established by manufacturers of furniture. In exercise of Clause 11.3.4 of Madhya Pradesh Bhandar Kray Tatha Sewa Uparjan Niyam, 2015 (hereinafter referred to as "Rules of 2015), the Government of Madhya Pradesh, Department of Revenue

issued a Goods Credential Certificate dated 01.06.2021 in favour of respondent No.6.

3. Shri Rahul Jain, learned counsel assisted by Shri Sumit Raghuwanshi, Advocate appearing for the petitioner has invited our attention to various provisions of Micro, Small And Medium Enterprises Development Act, 2006 and the Rules of 2015. It is submitted by him that in absence of any comparative assessment, issuance of certificate and permission to purchase furniture only from respondent No.6 is against the principles of natural justice, violative of Article 14 & 19 (1) (g) of the Constitution. According to him, there is no reason, whatsoever, in issuing the Credential Certificate in favour of respondent No.6 which is the essential requirement as per Clause 11.3.2 of the Rules of 2015. He also submits that Rule-25 of the Rules of 2015 requires to give preference to the manufacturers of the State of Madhya Pradesh. In the instant case there is violation of aforesaid Rules which ultimately goes against the spirit of Act of 2006. The Act of 2006 requires to promote the Small Scale Industries at all levels. He places reliance on the decisions of Supreme Court in the cases of *Ramana Dayaram Shetty Vs. The international Airport*¹, *Tata Cellular Vs. Union of India*², *Michigan Rubber (India) Limited Vs. State of Karnataka and others*³ and *Depak Babaria and another Vs. State of Gujarat and others*⁴.

4. Shri Ankit Agrawal, learned Government Advocate, appearing for respondents No. 1 to 5, has opposed the petition. According to him, the present petitioner is not a manufacturer and at the behest of petitioner-Federation, writ petition is not maintainable. There is no allegation of

1 (1979) 3 SCC-489.

2 (1994) 6 SCC 651.

3 (2012) 8 SCC 216.

4 (2014) 3 SCC 502.

any malafide or bias in taking the decision under challenge. The respondents have followed the procedure enshrined in the Rules of 2015 and specific technical requirement and other circumstances were taken into consideration. A Committee of experts was constituted to examine all the technical aspects and after comparative assessment from all the vendors who could have provided furniture with said technical specifications, the said Committee on 24.5.2021 recommended that the certificate in favour of respondent No.6 should be issued under Clause 11.3.4 of the Rules of 2015. The recommendation of the Committee is placed on record as Annexure R-1. He also submits that the High Court is not expected to substitute its own reasoning in place of reasoning given by expert Committee. He relies on the decisions of the Supreme Court in the case of *Afcons Infrastructure Ltd Vs. Nagpur Metro Rail Corporation*⁵, *Tata Cellular Vs. Union of India*⁶, *Jagdish Mandal Vs. State of Orissa and others with Laxman Sharma Vs. State of Orissa and others*⁷ (2007) 14 SCC 517 and *Raunaq International Ltd. Vs. IVR Construction Ltd. and others*⁸.

5. Shri Aditya Adhikari, learned Senior Advocate assisted by Shri Satyam Agrawal, learned counsel appearing for Respondent No.6, while supporting the arguments made by the State submits that the impugned order has already been effected by the department and tender process of 11 different districts has already been processed and after finalization of the same, letter of acceptance have also been issued in favour of four different firms. According to him, almost 60% of the required material has already been supplied in different places remaining material is ready

5 (2016) 16 SCC 818

6 (1994) 6 SCC 651

7 (2007) 14 SCC 517

8 (1991) 1 SCC 492

for delivery. Respondent No.6 further states that the tenders were invited from all eligible bidders who were willing to supply the furniture of respondent No.6 company as per the requirement of the tender and, therefore, there was a fair competition and without challenging the N.I.T dated 05.07.2021 (Annexure P/7), the present petition is not maintainable.

6. Shri Samdarshi Tiwari, learned counsel appearing for the intervenors, who are the dealers of respondent No.6-Godrej & Boyce Manufacturing Company Limited, has also opposed the present petition and submits that there is no scope for interference in the present petition as substantial supply has already been effected.

7. We have heard the learned counsel appearing for the parties and perused the record.

8. Para-4 and 5 of the Recommendation of the Committee of experts dated 24.05.2021 are reproduced as under :-

“4. समिति द्वारा यह अनुशंसा की गई कि कार्यालय भवनों हेतु ऐसे फर्नीचर उपलब्ध कराये जाने चाहिए जो उच्च गुणवत्ता के हों, Comfortable हो, टिकाऊ हो, आसानी से उपलब्ध हो, बाजार में Credibility उच्च हो और दरें भी युक्तियुक्त हों। उक्त संबंध में विभिन्न कंपनियों जैसे Nilkamal, Durian, Geeken, Wipro, Godrej, Knoll के फर्नीचरों पर विचार विमर्श उपरांत Wipro, Godrej, Knoll कंपनी के फर्नीचर के एक जैसी Specification के अनुसार तुलनात्मक पत्रक तैयार कराया जाकर, समिति के समक्ष प्रस्तुत किया गया जिसका अवलोकन समिति के सदस्यों द्वारा किया गया। सभी सदस्यों द्वारा तुलनात्मक पत्रक में knoll Company के फर्नीचर की दरें उच्च, फर्नीचर की उपलब्धता कम, एवं वांछित फर्नीचर में कुछ फर्नीचर की उपलब्धता नहीं होना पाई गई। Wipro एवं Godrej Company के Same Specification के फर्नीचर में

Godrej के वांछित अधिकांश फर्नीचर की दरें निम्न पाई गई है गुणवत्ता उच्च स्तर की होने एवं उपलब्धता सामान्य होने, उपलब्धता प्रदेश भर में होने एवं दरें उचित, फर्नीचर Comfortable होने, विभिन्न डिजाईन में उपलब्ध होने (कार्यालय फर्नीचर के अनुकूल), Durability अधिक होने, वारंटी/गारंटी की सुविधा होने से तथा मंत्रालय में नवनिर्मित एनेक्सी 1 एवं 2 में गोदरेज के फर्नीचर का उपयोग होने एवं फीडबैक संतुष्टिप्रद होने से समिति द्वारा गोदरेज के फर्नीचर का प्रदाय निर्माणधीन कार्यालय भवनों हेतु किए जाने की अनुशंसा की गई।

5. समिति द्वारा अनुशंसित गोदरेज कंपनी का ही फर्नीचर यदि निर्माणधीन कार्यालय भवनों में PIU के माध्यम से प्रदाय किया जाना है तो यह स्थिति एकल स्रोत से क्रय करने की श्रेणी में आयेगी। इस परिस्थिति में मध्यप्रदेश भण्डार क्रय तथा सेवा उपार्जन नियम, 2015 की कंडिका 11.03.04 के अंतर्गत आवश्यक प्रक्रिया का पालन कर एकल स्रोत से इच्छित वस्तु का क्रय किया जा सकता है जिसके लिए संबंधित विभाग द्वारा औचित्य वस्तु प्रमाण-पत्र जारी किया जाना होगा। तत्पश्चात ही एकल स्रोत से क्रय करने की निविदा आमंत्रित करने हेतु प्रक्रिया एजेंसी द्वारा की जा सकती है। PD PIU द्वारा उदाहरणार्थ चिकित्सा महाविद्यालयों में उच्च गुणवत्ता वाले फर्नीचर क्रय किये जाने हेतु म.प्र. भंडार क्रय एवं सेवा उपार्जन नियम, 2015 की कंडिका 11.03.04 के अंतर्गत प्रक्रिया का पालन करते हुए औचित्य वस्तु प्रमाण पत्र की प्रति संलग्न की गई है।”

9. Clause 11.3.2, no doubt requires that when a decision to purchase the goods from single source is taken, it must be preceded with specific reasons. To consider the submissions putforth by the petitioner, we have perused the reasons which have been recorded by the concerned authority and we find that the same duly fulfills the requirement of Rules of 2015. The Committee has examined various aspects, such as the high quality of office furniture, comfort, durability, availability and credibility in the

market etc. The Committee has also made an assessment of the furniture of the same specification of Godrej with the furniture of the same specification of the other companies. It is seen that after comparative analysis, a specific finding is recorded that from all perspective like availability, quality and the rates, the furniture of respondent No.6 Company was found to be more suitable. The Committee has taken into consideration various aspects including the warranty/guarantee of the furniture. The Committee also noted that the furniture of the same company was used in newly constructed annexe of new Secretariat building where no complaints were noted, hence the recommendations were made. Moreso, the Committee consisting of experts are the best judge for the requirement of the department and, in absence of any malafide or favourism, we are not inclined to interfere under Article 226 of the Constitution. Judicial review of administrative action is intended to prevent arbitrariness, irrationality, unreasonableness bias or malafide. The Constitutional Court can certainly interfere in any action if it is found that the same is misuse of statutory power or there is perversity in the understanding or appreciation. Selecting a suitable agency for supply of the goods under the rules in question is essentially a decision which requires to be taken after considering various parameters. However, in the instant case, we do not see any of the aforesaid reason to interfere. We have examined the decision cited by both the parties which are also in the same line and hence, they are not required to be dealt with exhaustively.

10. In view of aforesaid, the instant writ petition fails and is hereby dismissed.

(RAVI MALIMATH)
CHIEF JUSTICE

(PURUSHAINDR KUMAR KAURAV)
JUDGE

