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WP-19930-2025

IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE SANJEEV SACHDEVA,
ACTING CHIEF JUSTICE

&

HON'BLE SHRI JUSTICE VINAY SARAF

ON THE 23rd OF JUNE, 2025

WRIT PETITION No. 6994 of 2025

M/S DUTCH FORMULATIONS

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

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Appearance:

Shri Anil Khare - Senior Advocate with Shri Priyank Agrawal - Advocate for the petitioner.

Shri B.D.Singh - Deputy Advocate General for the respondent/State.

Shri Sanjay Agrawal - Senior Advocate with Ms.Aishwarya Nandani Tiwari - Advocate for the Intervener.

Shri Sanjay K.Agrawal - Senior Advocate with Shri Anas Hasan Khan - Advocate for the Intervener.

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WITH

WRIT PETITION No. 18209 of 2025

M/S DUTCH FORMULATIONS

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

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Appearance:

Shri Anil Khare - Senior Advocate with Shri Priyank Agrawal - Advocate for the petitioner.

Shri B.D.Singh - Deputy Advocate General for the respondent/State.

Shri Sanjay Agrawal - Senior Advocate with Ms.Aishwarya Nandani Tiwari - Advocate for the Intervener.

Shri Sanjay K.Agrawal - Senior Advocate with Shri Anas Hasan Khan -



Advocate for the Intervener.

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WRIT PETITION No. 19930 of 2025

M/S DUTCH FORMULATIONS AMBALA CITY HARYANA

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

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Appearance:

Shri Anil Khare - Senior Advocate with Shri Priyank Agrawal - Advocate for the petitioner.

Shri B.D.Singh - Deputy Advocate General for the respondent/State.

Shri Sanjay Agrawal - Senior Advocate with Ms.Aishwarya Nandani Tiwari - Advocate for the Intervener.

Shri Sanjay K.Agrawal - Senior Advocate with Shri Anas Hasan Khan - Advocate for the Intervener.

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ORDER

Per. Sanjeev Sachdeva, Acting Chief Justice

In these three petitions, Petitioner impugns three different tenders on the ground that appropriate reservation was not granted to the MSMEs, as mandated by the Public Procurement Policy of the Central Government as also the Office Memorandum issued by the Central Government, pursuant to the Public Procurement Policy.

We note that the challenge to the tenders was made after the petitioner had participated in the tenders and after the petitioner was declared technically not qualified.

Objection has been raised by the respondents that since petitioner has belatedly approached this Court, the petition should not be entertained.

It is settled position of law that a party cannot be permitted to challenge a tender after having participated in the same without a demur and



being declared unsuccessful.

In the instant case, the Notice Inviting Bid was issued at least one month prior to the last date for submission of bid. No objection was raised by the petitioner to the said tender before submitting its bid. Though a query was raised by the petitioner by way of a letter with regard to the Procurement Policy of the department, however, no challenge was raised by the petitioner to the said tender before participating. Petitioner having participated in the tenders without a demur and being declared non-successful, cannot be permitted to challenge the tenders after the tenders have been opened and the successful bidder declared.

Since the petitioner has made a challenge belatedly, we are not inclined to entertain the petitions.

The petitions are accordingly dismissed.

The question of law raised by the petitioner with regard to the applicability of the Public Procurement Policy to MSMEs is left open.

The interim orders are consequently vacated.

(SANJEEV SACHDEVA)
ACTING CHIEF JUSTICE

(VINAY SARAF)
JUDGE

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