
(2019) 11 UK CK 0132

In the Uttarakhand High Court

Case No : Writ Petition (M/S) No. 99 Of 2019

Kerala Ayurvedic Co-Operative Society Ltd

APPELLANT

Vs

State Of Uttarakhand & Others

RESPONDENT

Date of Decision : 18-11-2019

Acts Referred:

Citation : (2019) 11 UK CK 0132

Hon'ble Judges : Sudhanshu Dhulia, J

Bench : Single Bench

Advocate : K.K. Harbola, N.S. Pundir, V.K. Kapurwan

Final Decision : Disposed Of

Judgement

Sudhanshu Dhulia, J

1. The petitioner is a registered Co-operative Society registered under the Kerala Cooperative Society Act, 1969. According to the petitioner, it is under the direct administrative control of the Government of Kerala and in fact 66% of the shares of the Society are of the Government of Kerala though essentially it is a Cooperative Society.

2. The Directorate, Ayurvedic Evam Unani Services, Uttarakhand had published an advertisement seeking offers from the eligible bidders for supply of ayurvedic medicines. It was an E-tender bid and the prospective participants had to submit their offer between 13.07.2018 to 04.08.2018. The petitioner submitted its bid, which was held to be technically disqualified vide order dated 09.10.2018. The grounds for doing so were that petitioner had not submitted its certificate of its being a Public Sector Undertaking of the Central Government or the State Government. This has presently been challenged by the petitioner before this Court.

3. As far as condition of bid was concerned, condition no.2 of the E-tender provides that only such Units which were of the Government of India or of the

State Government undertaking and had relevant certificate by the Principal Secretary/ Secretary of the relevant authority to this effect will be eligible for participating in E-tender.

4. Petitioner admittedly is not such a Unit. In other words, as per the terms and conditions given by the State Government, the petitioner was not even eligible to apply. Yet he had participated in the bid and thereafter his bid has been rejected by the respondent authorities. The condition ousting the petitioner from the participation has not been challenged by the petitioner. According to the petitioner, however, this condition cannot be imposed as in this bid of the State Government, 90% of the amount has been financed by the Central Government under its Ayurvedic Mission which has prescribes the qualification and the State authorities cannot go beyond these qualification.

5. The condition of the Central Government is given in National Ayush Mission which is the guidelines of the Central Government to the State Government, which says that when the Central Government procures Ayurvedic medicines, it should follow the following procedures:

"4 (vi) (a)....

(b) At least 50% of the Grant-in aid provided should be used for procuring medicines from M/s Indian Medicine Pharmaceutical Corporation Limited (a Central Public Sector Undertaking) or from Public Sector undertakings, pharmacies under State Governments and Co-operatives manufactured in their own manufacturing units and having Good Manufacturing Practices (GMP) compliance, keeping in view the need for ensuring quality of AYUSH drugs and medicines.

(c) The remaining Grant-in aid provided under the Mission for purchase of medicines may be used for procuring medicines as per Essential Drugs List (EDL) of Ayurveda, Unani, Siddha and Homoeopathy published by Department of AYUSH, Government of India, from other Good Manufacturing Practices (GMP) compliant units having valid manufacturing licenses."

(emphasis supplied)

6. In other words there is in fact no prohibition for even private companies to apply for the 50% of the requisition which is being made at the hands of the State Government.

7. In any case the petitioner is covered being a Cooperative Unit, as he is eligible for participating in E-tender both under the 4 (vi) (b) as well as (4) (vi) (c) category referred above, provided the petitioner submits the relevant certificates duly authenticated by the Department as required by the State Government in future.

8. All the same, the petitioner having participated in the bid process cannot get the relief in the present case. This order shall therefore in no manner affect the

present bid process or the contract which has already been executed. All the same, it is directed that for the process which is under the same Government of India scheme, governed by the condition as referred above, the respondent State Authorities shall adhere to the conditions as stipulated by the Government of India for future similar contracts.

9. Subject to the observations made above, writ petition stands disposed.