



2026:DHC:2402-DB

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% Judgment reserved on: 17.03.2026
Judgment delivered on: 23.03.2026
Judgment uploaded on: *As per Digital Signature~*

+ **W.P.(C) 2103/2026 & CM APPL. 10263/2026**

M/S KEWAL CANTEENPetitioner
versus
UNION OF INDIA & ORS.Respondents

Advocates who appeared in this case

For the Petitioner : Ms. Amrita Mishra, Mr. Raj Ranjay Singh
and Ms. Mamta Tiwari, Advocates.

For the Respondents : Mr. Rohan Jaitley CGSC, Mr. Akshay
Sharma (GP), Mr. Dev Pratap Shahi Adv,
Mr. Varun Pratap Singh Adv, Mr. Yogya
Bhatia Adv. along with Dr. Manoj Kumar
Jha Addl. MS.

+ **W.P.(C) 2779/2026 & CM APPL. 13492/2026**

PARIDA PHOTOCOPIER AND PCO BOOTHPetitioner
versus
UNION OF INDIA & ORS.Respondents

Advocates who appeared in this case

For the Petitioner : Mr. Nitin Mangla, Mr. Nitish Garg and Mr.
Nishchay Kapoor, Advocates.

For the Respondents : Ms. Iram Majid, CGSC, and Mr. Mohd
Suboor, Advocate.
Dr. Manoj Kumar Jha Addl. MS



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CORAM:
HON'BLE MR. JUSTICE V. KAMESWAR RAO
HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

JUDGMENT

V. KAMESWAR RAO, J.

1. The captioned two petitions have been filed by the respective petitioners challenging a tender bearing No. Esta-11/10/2023-Estate Section-Dr. RMLH dated 19.01.2026 and a tender bearing No. Esta-11/10/2023-Estate Section-Dr. RMLH dated 20.01.2026 along with corrigendum dated 14.02.2026, floated by the respondents, for three kiosks/shops in the premises of the A.B.V.I.M.S. & Dr. Ram Manohar Lohia Hospital, New Delhi (*the respondent hospital*).

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2. The petitioner has been operating a round the clock kiosk/canteen which known as *Kewal's Canteen* in the premises of the respondent hospital since 28.10.1988 by the permission of the then president of Resident Doctors Association of the hospital *vide* its letter dated 26.10.1988 which was further extended till the year 1990 by the management of the respondent hospital against rent worth Rs.600/- per month. Thereafter, *vide* allotment letter No.13-83/DC/RMLH/Canteen/New Delhi/18464 dated 06.12.1990 the said kiosk was allotted to the petitioner for sale of hot and cold beverages, snacks and packed food items.

3. On 06.03.2025, the petitioner requested the respondent No. 2 for extension of the said allotment. The respondent No. 2 *vide* letter No. Esta-



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11/2/2022-Estate Section-Dr. RMLH/360 dated 19.11.2025 granted extension of the allotment of space from 01.04.2024 to 31.03.2026 on payment of Rs.7181/- per month from 01.04.2025 to 31.12.2025 and Rs.7637/- per month from 01.01.2026 to 31.03.2026 towards license fee including all other charges.

4. On 19.01.2026, the respondent No. 2 issued a notice bearing Tender No. Esta-11/10/2023-Estate Section-Dr. RMLH for “Operating Kiosks-03 Nos.” in the respondent hospital.

5. The averment of the petitioner is that paragraph 7 (1) of the tender is in violation of Article 19 (1)(g) and Article 21 of the Constitution of India, as it restricts applicants like the petitioner from participating in the bidding process due to it requiring a specific average annual turnover. The said eligibility condition is reproduced as under:-

“7. Eligibility Criteria:

1. Average Annual Turnover of Rs. 50,00,000/- (Rs.Fifty Lac Only) or more during last three (3) financial years (2022-23, 2023-24 & 2024-25)

2. Minimum 3 years experience in running canteen/kiosk in a Corporate or Government Organization.

3. Valid registration with GST, PAN, EPF, ESI.

4. MSEs/Start-ups are exempted as per prevailing rules (subject to submission of valid proof/certificates).”

6. The learned counsel for the petitioner stated that despite possessing all necessary registrations, technical capabilities, and willingness to comply with Government guidelines, the petitioner has been rendered ineligible to



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participate in the tender/bidding process solely due to requirement of the above criteria mandating prospective bidders to have a turnover of Rs.50,000,00/- or more during the last three financial years (2022-23, 2023-24 & 2024-25).

7. That apart, it is stated that clause 3 of paragraph No.8 of the impugned tender, containing the selection process prescribes that the tender shall be awarded will be given to the highest license fee quoted (H-1 Bidder), subject to minimum reserved license fee of Rs. 450/- per square foot per month. At present, the petitioner is paying Rs. 7200/- to the respondents as rent. By Paragraph 8 of the tender dated 19.01.2026, the respondent hospital also proposes to increase the monthly rent to Rs.45,000/-, representing more than sevenfold enhancement from the current rate of Rs.7200/- for a small kiosk with area of 10"x10". No justification, valuation report or policy rationale has been provided for such an exorbitant hike. This demand is particularly egregious considering that similarly situated shops within the same compound which were excluded from the tender continue to pay rent in the range of Rs.5,000/- to Rs.9,000/-. This disparity further underscores the unequal and discriminatory treatment meted out to the petitioner.

8. It is further stated that there are eight authorized kiosks including the petitioner's shop currently operating within the hospital premises providing various essential services. On 20.01.2026, the respondent No. 2 and 3 floated the impugned tender bearing No. Esta-11/10/2023-Estate Section-Dr. RMLH dated 20.01.2026 for re-allotment of three of the said eight kiosks without disclosing any intelligible differentia, rationale or objective for



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excluding the remaining five shops from the tendering process. The impugned tender selectively targets only three shops for re-allotment, while the rest of the said five shops continue to operate under their existing arrangements. This selective tendering process constitutes hostile discrimination and a patent violation of the principles of equality enshrined under Article 14 of the Constitution of India.

9. Aggrieved by the above, the petitioner made a representation dated 30.01.2026 to the respondent No. 2 and requested to review the said clauses of the tender and the upload the amended tender notice on official website of the respondents to make eligible such vendors like the petitioner to participate in the bidding process. However no reply or response was received from the respondent No. 2 to the representation.

10. It is submitted that the petitioner runs canteen/kiosk within the premises of the respondent hospital on subsidised rates and earns his livelihood without huge profits, as would be clear from its Income Tax Returns filed during the last three financial years (2022-23, 2023-24 & 2024-25) which is less than Rs.6,00,000/-.

11. The case of the petitioner is that the said conditions contradict the principles of open and fair competition, inasmuch as they restrict the petitioner and other potential bidders, with experience of more than 35 years in running kiosks within the premises of the respondent hospital. As such, paragraph 7 (1) of the impugned tender dated 19.01.2026 is discriminatory, arbitrary and contrary to the principles of natural justice, and is in violation of Articles 14, 19 (1)(g) and Article 21 of the Constitution of India.



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12. It is contended that the impugned eligibility criteria is arbitrary as such high threshold creates a monopoly for large companies, violating Articles 14 and Article 19(1)(g) of the Constitution of India. The turnover criteria of Rs.50,000,00/- or more during last three financial years is unusually high for the vendors like the petitioner who have run government canteens for a long time at the respondent hospital on subsidised rates. The actions of the respondents go against Article 14 of the Constitution of India mandates that the State shall not deny equality before law or equal protection of laws.

13. In any case, such eligibility criteria has no rational nexus with the nature of the work, as specialised experience in food safety is more relevant than excessive annual turnover. Hence the said condition is absolutely arbitrary, unreasonable and suffers from the vice of *mala fide* and accordingly deserves to be quashed.

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14. The petitioner herein is the operator of *Parida Photocopier and STD/PCO booth*, a small utility kiosk providing photocopying, printing and document services primarily to the patients, attendants and medical staff of the respondent hospital. The kiosk constitutes his sole source of income. The petitioner has been operating the said kiosk for almost ten years, pursuant to the permissions granted by the competent authorities of the respondent hospital.

15. The last extension for the petitioner's occupation was granted by a letter dated 19.11.2025, permitting the petitioner to continue the operations



till 31.03.2026 at a monthly license fee of Rs.4,144/-.

16. On 20.01.2026, the respondents no.2 & 3 arbitrarily floated the impugned tender No.Esta-11/10/2023-Estate Section-Dr. RMLH for re-allotment of three out of said eight kiosks without disclosing any intelligible differentia or objective for excluding the remaining five kiosks from the tender, which continue to operate under the existing arrangements.

17. The case of the petitioner herein is similar to that of the petitioner in W.P (C) 2103/2026, inasmuch as, the selective tendering process constitutes hostile discrimination and a patent violation of the principles of equality under Article 14 of the Constitution of India. A challenge is made to paragraph 7.1 of the tender dated 20.01.2026, which prescribes an eligibility condition that the average annual turnover of the bidder should be Rs.50,00,000/- or more during the last three financial years. The said requirement is stated to be unusually high for petitioner who runs a small photocopy shop at subsidised rates, and is arbitrary and in violation of the Articles 14 and 19(1)(g) of the Constitution of India.

18. The learned counsel for the petitioner stated that during the pendency of the W.P.(C) 2103/2026, the respondents issued an amendment by way of corrigendum dated 14.02.2026 whereby the aforesaid annual income criteria has been reduced from Rs.50,00,000/- to Rs.20,00,000/-. However, even this amended criterion is impracticable and unreasonable, as the shop in question is a small 10"x10" kiosk providing limited photocopy and printing services primarily for medical documents and identity proofs. By no stretch of imagination can a micro utility generate the mandated revenue.



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19. Similar to W.P.(C) No.2103/2026, a challenge is also made to the selection process prescribed in paragraph no.8 of the tender, which proposes to increase the monthly rent from Rs.4144/- to Rs.45,000/-.

20. It is additionally submitted that the petitioner has a legitimate expectations of continued occupation and extension of the license based on the past practice of the respondents in granting extensions. The sudden and unreasoned departure from this established practice without issuing notice or affording the petitioner an opportunity to be heard violates the principles of legitimate expectation and the natural justice.

SUBMISSIONS ON BEHALF OF THE RESPONDENTS

21. The learned counsel for the respondents submitted that the allegation of discrimination and violation of Article 14 of the Constitution of India is unmerited as the eight kiosks have been categorized into two distinct classes based on intelligible differentia. Class A (5 kiosks) are operated by cooperative societies/state PSUs to ensure the availability of quality products at reasonable and regulated prices for thousands of patients. Class B (3 kiosks) are 'unreserved units' intended for the open market to ensure transparency and fair competition, allotted through public tenders. The petitioner being a private operator cannot claim parity with cooperative societies/state PSUs.

22. It is also submitted that the determination of turnover criteria and minimum reserved license fee is within the exclusive domain of the tendering authority. The court does not sit in appeal over the commercial wisdom, unless the decision is found to be patently arbitrary or malicious.



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23. It is stated that though the initial turnover criteria was Rs.50,00,000/-, following a representation from a prospective bidder, the competent authority reduced the same to Rs.20,00,000/- by way of a corrigendum dated 14.02.2026 to encourage wider participation. This requirement is reasonable given the high daily footfall and the necessity of maintaining statutory compliances like, GST, EPF and FSSAI.

24. With regard to the license fee of Rs.450/- per square foot, it is submitted that the same is reasonable, and the New Delhi Municipal Council (NDMC) has allotted similar shops along the adjoining boundary wall to private vendors at a monthly rate of Rs.76,170/- which is significantly higher than the base price fixed in the impugned tender. The petitioners' current rates being subsidised legacy rent rates do not reflect the current market values, and as such the petitioners cannot insist on a right to continue with the same.

25. The learned counsel for the respondents have also contested the submission of the petitioner with regard to having a legitimate expectation by stating that every extension granted to the petitioners carried the explicit caveat that they were valid till "*the finalization of new tender*". The petitioners having accepted these terms were fully aware that the nomination-based arrangement was temporary.

26. It is also stated that five Memorandum of Understanding (MoU) have been signed and entered into with certain cooperative societies namely, Mother Dairy, Jaipur Dairy, IIPMC Juice Corner, and Amul Milk Parlour, for allotment of Class A kiosks.



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27. Much reliance is placed by the learned counsel for the respondents on the judgments in *Axis Energy Ventures India (P) Ltd. v. Union of India: 2022 SCC OnLine Del 4677*, *Directorate of Education v. Educomp Datamatics Ltd.: (2004) 4 SCC 19*, *Balaji Ventures (P) Ltd. V. Maharashtra State Power Generation Co. Ltd.: 2022 SCC OnLine SC 1967* and *Uflex Limited v. Government of Tamil Nadu & Others: (2022)1 SCC 165* to contend that interference of courts in tender/contract matters is only warranted when the decision of the tendering authority is arbitrary, unreasonable or actuated by *mala fide*, which is not the case herein.

CONCLUSION

28. Having heard the learned counsel for the parties, the short issue which arises for the consideration is whether the respondents are justified in prescribing an annual turnover of Rs. 50,00,000/- (later reduced to Rs.20,00,000/-) as the eligibility condition for bidding in the tenders and also whether the respondents are justified in including only three kiosks in the tender, while reserving five kiosks to various cooperative societies.

29. At the outset, we may state that it is well settled that the tendering authority is best placed to judge its requirements and to interpret the terms of the tender. When a challenge is made to the conditions of a tender, it is incumbent upon the bidder/stakeholder raising the challenge to demonstrate that arbitrariness, unreasonableness, or *mala fide* is writ large in the action or decision of the tendering authority. The court does not sit in appeal over the commercial wisdom of the tendering authority. It is only when the action or decision is manifestly perverse by reason of discrimination, *Wednesbury*



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unreasonableness or *mala fide* that the court will interfere with the tender. The Supreme Court in **Directorate of Education** (*supra*), while deliberating the issue of judicial review in government tenders, observed as under:

“10. In *Air India Limited v. Cochin International Airport Limited* [2000 (2) SCC 617], this Court observed:

"The award of a contract, whether it is by a private party or by a public body or the State, is essentially a commercial transaction. In arriving at a commercial decision considerations which are paramount are commercial considerations. The State can choose its own method to arrive at a decision. It can fix its own terms of invitation to tender and that is not open to judicial scrutiny. It can enter into negotiations before finally deciding to accept one of the offers made to it. Price need not always be the sole criterion for awarding a contract. It is free to grant any relaxation, for bona fide reasons, if the tender conditions permit such a relaxation. It may not accept the offer even though it happens to be the highest or the lowest. But the State, its corporations, instrumentalities and agencies are bound to adhere to the norms, standards and procedures laid down by them and cannot depart from them arbitrarily. Though that decision is not amenable to judicial review, the court can examine the decision-making process and interfere if it is found vitiated by mala fides, unreasonableness and arbitrariness."

(Emphasis supplied)

11. This principle was again re-stated by this Court in *Monarch Infrastructure (P) Ltd. vs. Commissioner, Ulhasnagar Municipal Corporation and Others* [2000 (5) SCC 287]. It was held that the terms and conditions in the tender are prescribed by the government bearing in mind the nature of contract and in such matters the authority calling for the tender is the best judge to prescribe the terms and conditions of the tender. It is



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not for the courts to say whether the conditions prescribed in the tender under consideration were better than the one prescribed in the earlier tender invitations.

12. It has clearly been held in these decisions that the terms of the invitation to tender are not open to judicial scrutiny the same being in the realm of contract. That the government must have a free hand in setting the terms of the tender. It must have reasonable play in its joints as a necessary concomitant for an administrative body in an administrative sphere. The courts would interfere with the administrative policy decision only if it is arbitrary, discriminatory, mala fide or actuated by bias. It is entitled to pragmatic adjustments which may be called for by the particular circumstances. The courts cannot strike down the terms of the tender prescribed by the government because it feels that some other terms in the tender would have been fair, wiser or logical. The courts can interfere only if the policy decision is arbitrary, discriminatory or mala fide.”

30. We shall proceed to decide the present controversy within the contours of law, as enunciated above.

31. The respondents in paragraph no.7 of the counter affidavit filed in W.P.(C) No.2103/2016, have submitted that a representation was received from the petitioner dated 30.01.2026 seeking review and suitable amendment/relaxation of the turnover eligibility condition in the tender document, which was examined and considered by the concerned officials of the respondent hospital. In view of the request made by the petitioner, and to encourage wider participation and enhance competition, the requirement of average annual turnover during the last three financial years was reduced from Rs. 50,00,000/- to Rs.20,00,000/- and the dates of opening of the bids were also extended.



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32. The reasoning provided by the respondents for justifying the eligibility criteria is that the reduced criteria of Rs. 20,00,000/- per annum translates to around 1.6 lakh per month, which is a standard figure for a high-footfall hospital kiosk. Further, the decision has been taken in view of the requirement of statutory compliances like, GST, EPF and FSSAI. It is contended that the state has the autonomy to set procurement standards and revise turnover requirements based on administrative experience to ensure service quality.

33. Be that as it may, during the course of the hearing, the learned counsel for the petitioners objected to the amended turnover criteria by stating that even the reduced turnover requirement of Rs. 20,00,000/- is unreasonably high for the petitioners. Though we put a specific query to the learned counsel for the petitioners, if not Rs.20,00,000/-, then what should be the appropriate amount to be prescribed as the annual turnover as per the petitioners, no answer was forthcoming. In other words, it appears that the petitioners may not be in a position to meet the annual turnover criteria, even if, it can be further reduced. A perusal of the Income Tax Returns filed by the petitioner in W.P.(C) No.2103 shows that the total annual income of the petitioner therein during each of the last three financial years (2022-23, 2023-24 & 2024-25) was less than Rs.6,00,000/-, which hardly meets the threshold of the annual license fee. As such, even if the prescribed annual turnover of Rs.20,00,000/- is further reduced, the petitioners may not be able to meet the same.

34. A related issue raised is that paragraph 8 of the impugned tender fixes the license fee at Rs.450/- per square foot, which for the kiosks measuring



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10''x10'' will come to Rs.45,000/- per month and Rs.5,40,000/- per annum. The respondents have attempted to justify the same by stating that the current license fee granted to the petitioners is on a subsidised basis, and they do not have any right to claim such rates in perpetuity. It is also stated that the prescribed rate of Rs. 450 per square foot is lower than the license fee being charged by the NDMC for the shops adjoining the boundary walls of the kiosks in question.

35. Insofar as the challenge to the decision of the respondents to not include 5 other kiosks in the tender is concerned, the contention is that the said 5 kiosks constitute a separate class, inasmuch as they have been reserved to be allotted to state PSUs/co-operative societies. The respondents have placed before us the note sheet wherein a decision has been taken by the competent authority to allot the said five kiosks to certain cooperative societies. The MoUs arrived at between the respondent hospital and Mother Dairy, Jaipur Dairy, IIPMC Juice Corner, and Amul Milk Parlour have also been placed on record. Such allotment of the five reserved kiosks to cooperative societies is a policy decision of the respondents and cannot be faulted.

36. Suffice it to state, prescription of terms and conditions of a tender document falls within the domain of the tendering authority, and since the petitioners have not shown any arbitrariness, unreasonableness or *mala fide* on part of the respondent hospital, the prayers sought for in these petitions cannot be granted.

37. We are of the view that the present petitions lacks merit and the



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same are liable to be dismissed. We order so accordingly.

38. The pending applications are also dismissed.

V. KAMESWAR RAO, J

MANMEET PRITAM SINGH ARORA, J

MARCH 23, 2026

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