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IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 13142 of 2026

M/s. U-Tech Service, Puri ***Petitioner***

-versus-

State of Odisha, Department of ***Opposite Parties***
Health and Family Welfare,
Bhubaneswar and another

Advocates appeared in this case:

For Petitioner : Mr. Rajjeet Roy, Advocate

For Opposite Parties-State : Ms. Biswabara Dash,
Additional Standing Counsel

CORAM:
HON'BLE THE CHIEF JUSTICE
AND
HON'BLE MR JUSTICE MURAHARI SRI RAMAN

J U D G M E N T

Date of Hearing and Judgment: 6th May, 2026

HARISH TANDON, C.J.

1. The petitioner is an intending bidder to participate in the tender in question floated by the Chief District Medical and Public Health Officer, Puri for outsourcing of Techno Managerial Personnel Services at the Government Institutions, Puri.



2. The Request for Proposal (RFP) with such nomenclature indicates that the said tender was floated for selection of an agency to undertake Paramedics, Nursing and other Techno Managerial Services at the Government Health Institutions and Clause 2.2 of the said Request for Proposal contains exhaustive conditions pertaining to the eligibility criteria of such intending bidders.

3. The petitioner has challenged Clause 2.2 (I) and (V) which have restricted the participation for the Company, Partnership Firm, Society and the Trust thereby eliminating the proprietorship concern without any reason nor any reasonability could be attached to the object sought to be achieved. It further postulates the minimum three years of working experience in providing a personnel for paramedics/nursing/clinical services in the health facilities of the Government sector, which according to the petitioner is too harsh and offends the equality principles.

4. So far as Clause 2.2 (V) is concerned, it is sought to be contended that the petitioner is supplying the manpower in different sectors of the Government and, therefore, fixation of such working experience clause in paramedics, nursing, clinical services is



discriminatory and calibrated to eliminate other eligible bidders who have a vast experience of supplying manpower.

5. Taking that point first, it is no gain saying that the Request for Proposal was floated for selection of an agency to undertake the paramedics, nursing and other techno managerial services at the Government health institutions and, therefore, it being a specialized sector, the expertise into this regard cannot be said to be unreasonable and/or irrational. The health sector is one of the important and integral part of the entire Administrative system which deals with the wellbeing of the citizenry of the country. It also deals with the health and the life of the person and in order to achieve such avowed objective any criteria, pertaining to the experience is put in, cannot be said to be irrational and/or unreasonable.

6. It is not a case simpliciter for supplying manpower to do the menial things but supply of manpower to undertake paramedics, nursing and other techno-managerial services at the Government hospitals and, in the event, experience clause is incorporated therein we do not find any justification in the stand of the petitioner that such conditions are oppressive and/or aimed to favour some persons.



Apart from the same, the Tendering Authorities are free to put conditions depending upon the nature of the services/work and if the nexus can be manifestly seen from the same even if some of the persons are eliminated having no qualifications and/or experience in this regard cannot be said to offend Article 14 or Article 19(1)(g) of the Constitution of India.

7. The conditions/restrictions must be such to achieve the object and have nexus to the purpose for which it is so put and it is not open to a person having no eligibility criteria to challenge such conditions if it appears to be reasonable and rational in all respect. So far as the sub-clause (I) of Clause 2.2 of the Request for Proposal is concerned, we find justification in the stand of the petitioner that the authorities cannot exclude the proprietorship concern from participating therein if the other conditions relating to eligibility criteria are fulfilled by him, more particularly, when the partnership firm, company, society and trust are entitled to participate.

8. The person who runs the agency of supplying the manpower constitute a homogenous class and any classification within the homogenous class without any intelligible differentia offends the core fabric of Articles 14 and 19(1)(g) of the



Constitution of India. We are conscious that the classification within the class is permissible provided it has a nexus to the object sought to be achieved and not when the persons of the said homogenous class is eliminated without any rational and/or reasonableness in the object for which such tender was floated.

9. Eliminating a person, being an integral part of the said homogenous class, by creating an unreasonable and irrational classification is to be eschewed as it is opposed to not only the equality principles but also suffers from vice of arbitrariness. The elimination of a person from a homogenous class without any reasonable objective cannot be said to be within the competence of Tendering Authority nor such decision gets immunity from interference by the writ Court.

10. We are unable to countenance the submission of Ms. Biswabara Dash, learned Additional Standing Counsel that the Court recognizes the freedom of incorporation of the clause in the tender and if such clause is put, it is insulated from being scuttled by any judicial interference. If the clause appears to be against the constitutional provisions or violates any fundamental rights contained in Part III of the Constitution of India, the writ Court



should step in and pierce such insulation having put and declare such clause to be unconstitutional.

11. In the event the stand taken by the Government is accepted as aforesaid, every action of the Government be it violative of the statutory right or the constitutional provisions, is not susceptible to be interfered with and a situation may arise that in the garb of a freedom to contract, the Constitutional right would remain a dead letter.

12. The fundamental rights are inviolable nor can be tinkered with and if the Court finds that a Government or a semi-Government or the authority, as the case may be, violates such fundamental rights of a citizen, such action is always regarded as tainted and warrants immediate interference by the writ Court.

13. We do not find any reasonability in excluding the proprietorship concern when the partnership firm, company, society and trust are included within sub-clause (I) of Clause 2.2 of the RFP. The elimination of a proprietorship concern from participating in the tender process is a denial of a right enshrined under Article 19(1)(g) and also offends the ethos of Article 14 of the Constitution of India.



There is no intelligible differentia which could be perceived and/or manifestly seen from such sub-clause (I) of Clause 2.2 and, therefore, such classification within the homogeneous class is against the principles emanating from the Part III of the Constitution of India.

14. Though we would have proceeded to quash and set aside the entire RFP, but we are conscious that the supply of manpower to render services as paramedics, nursing and other techno managerial services are the essential services. Therefore, we do not intend to interfere therewith for the reasons that though the petitioner, being a proprietorship concern, is eligible to participate under Clause 2.2.(I), yet it appears from the submissions made before us that it does not have the experience as contemplated under sub-clause (V) of Clause 2.2 and, therefore, does not meet the eligibility criteria.

15. However, we simply declare that sub-clause (I) of Clause 2.2 of the said Request for Proposal being violative of Articles 14 and 19(1)(g) of the Constitution, any proprietorship concern, who qualifies the other conditions enshrined therein, may not be debarred from participating in the said tender process.



16. The Government shall also take into consideration the observations made hereinabove while floating the future tender containing the restrictive clause i.e., Clause 2.2(I) and shall also include the proprietorship concern along with the other mentioned therein.

17. The writ petition is, thus, dismissed.

(Harish Tandon)
Chief Justice

(M.S. Raman)
Judge

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Signature Not Verified

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Reason: Authentication
Location: High Court of Orissa, Cuttack
Date: 15-May-2026 13:39:47

