



IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.22558 of 2025

Abhiram Caretaking and Expert Services, Bhubaneswar ***Petitioner***

Mr. Rakesh Behera, Advocate

-versus-

State of Odisha and others ***Opposite Parties***
Ms. Aishwarya Dash, ASC

CORAM:

THE HON'BLE THE CHIEF JUSTICE

AND

THE HON'BLE MR. JUSTICE MURAHARI SRI RAMAN

ORDER

18.08.2025

Order No.

01. 1. It is one of the classic example when a co-bidder has put a spanner into the entire process of tender on frivolous and vexatious grounds unrelated and/or unconnected with the eligibility criteria and/or participation therein. The notice inviting tender for providing the services in the hospital was published by the authority and undeniably the petitioner as well as opposite party no.6 submitted their respective bids. The bid has to pass through two tiers, i.e., the technical bid stage and the financial bid stage. The bid was opened at the technical bid stage, where the petitioner as well as opposite party no.6 was declared qualified. Before the authority could proceed to open the financial bid, the present writ petition came to be filed to forestall the entire tender process on the ground that the Bye-laws and the Article of Association of opposite party no.6-Society does not provide any such services to be extended for monetary gain and, therefore, opposite party no.6-Society should be



disqualified. A further plea is taken that one of the employees of opposite party no.6-Society filed an F.I.R., which they did not disclose in the document and, therefore, having suppressed the material fact, they cannot be declared to be qualified in the technical bid.

2. The Memorandum/Article of Association at the time of registration of the Society is annexed to the writ petition, where the primary/main object and the ancillary objects are clearly and precisely incorporated therein. Though the main object relates to providing the Health care facility, Education, Agriculture and Animal Husbandry, the Social Forestry, Ecology and Environment, Youth Affairs and Marketing of Rural Products, the ancillary objects which are incidental to the main object, also provide that they may accept the monetary donation or may do all such other lawful things, as may be incidental or conducive to the attainment of the above objectives. Clause (f) under the broad heading “Objective Incidental to the Main Objectives” gives a power into the society to vary the major or auxiliary objectives if the need is so warranted and all the incomes and earnings shall be solely utilized and applied towards the promotion of the initial object thereof.

3. There is no pleading to the effect that the Members of the Society cannot take an uniform decision for rendering those services, for which the tender was invited, rather it impliedly corroborates the functioning of the Organization when a plea is taken that the turnover of the said Society in providing such services is higher than the turnover of the petitioner. The moment



the society is actively engaged in providing such services in pursuit of an income of augmenting the income to be utilized for the main, major or incidental objectives, we do not find any justification in the part of the petitioner to create any obstacle in the tender process.

4. Section 12 of the Societies Registration Act, 1860 so far as the Odisha Amendment is concerned, postulates that where it appears to the Governing Body or any Society registered under the said Act, which has been established for any particular purpose or purposes, in the event it is so advised, such Governing Body can alter, extend, or abridge such purpose to or for other purposes within the meaning of this Act, provided the Governing Body must submit the proposition to the Members of the Society in a written or printed report, and may convene a special meeting for the consideration thereof according to the regulations of the Society. The said provision is quoted as under:-

“12. Societies enabled to alter, extend or abridge their purposes.- Whenever it shall appear to the Governing body of any Society registered under this Act, which has been established for any particular purpose or purposes, that it is advisable to alter, extend, or abridge such purpose to or for other purposes within the meaning of this Act, or to amalgamate such Society either wholly or partially with any other Society [or whenever the Governing Body of any such Society decides to change the name of Society] such Governing body may submit the proposition to the members of the Society in a written or printed report, and may convene a special meeting for the consideration thereof according to the regulations of the Society;



but no such proposition shall be carried into the effect unless such report shall been delivered or sent by post to every member of the Society ten days previous to be special meeting convened by the governing body for the consideration thereof, nor unless such proposition shall have been agreed to by the votes of three-fifths of the members delivered in person or by proxy, and confirmed by the votes of three-fifths of the members present at a second special meeting convened by the governing body at an interval of one month after the former meeting.

Provided that no proposition for amalgamation shall be carried into effect unless it has been considered, agreed to and confirmed by all the concerned Societies in the manner prescribed in this section.”

5. The reading of the said provision does not inculcate the sense that the Society cannot alter the purpose for which it was so initially constituted, but the Governing Body with the concurrence of its Members may alter, extend or abridge any such purposes. Since the Society is actively involved in providing such services in different hospitals, which can be reasonably inferred from the turnover disclosed by them, we do not find there is any substance in the contention of the petitioner that they cannot do a thing which the Article of Association/Bye-laws does not provide. We do not find any absolute fetter or prohibition created in the statute upon the Society registered under the said Act to forbear from doing a thing not contemplated and/or incorporated in the Articles of Association or the Memorandum. Rather, Section 12 of the Societies Registration Act, 1860 bestowed power upon the Governing Body to alter, extend or abridge any of the purposes subject to the fulfilment of the other conditions mentioned therein.



6. So far as the non-disclosure of F.I.R. is concerned, we find from the date of lodging an F.I.R., the submission of the bid is in a close proximity of time. But we do not find that mere lodging an F.I.R. without any intimation and/or communication in this regard should stand as disqualification at the time of submission of bid. Had the person consciously suppressed the fact and disclosed the false information, the position would have been different. There is no material forthcoming that the factum of lodging an F.I.R. was communicated to opposite party no.6 and, therefore, we do not find that it would invite a disqualification. A person approaching the Court must come with full disclosure of the legally enforceable right and the material which will have some nexus or bearing in conjunction with the statutory provisions and not on mere surmise or conjectures.

7. Since the petitioner has miserably failed to provide any corroborative evidence in support of the aforesaid stand, the writ petition being vexatious and frivolous, deserves to be dismissed. Accordingly, the writ petition is dismissed with cost assessed at Rs.25,000/- (rupees twenty five thousand) to be deposited with the State Legal Services Authority (SLSA) within two weeks from date.

(Harish Tandon)
Chief Justice

(M.S. Raman)
Judge

Signature Not Verified

Digitally Signed
Signed by: LAXMIKANT MOHAPATRA
Designation: Senior Stenographer
Reason: Authentication
Location: High Court of Orissa, Cuttack
Date: 19-Aug-2025 18:33:47