IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD

WEDNESDAY, THE TWENTY SECOND DAY OF APRIL
TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE THE CHIEF JUSTICE SRI APARESH KUMAR SINGH
AND
THE HONOURABLE SRI JUSTICE G.M. MOHIUDDIN

WRIT APPEAL NO: 327 OF 2026

Writ Appeal under clause 15 of the Letters Patent Filed against the order Dated 21/01/2026 in writ Petition No.34632 of 2025. on the file of the High Court.

Between:

Employees State Insurance Corporation, Having its regional office at Panchdeep Bhawan, 5923 Hill Fort Road, Adarsh Nagar, Hyderabad 500063, Telangana_ represented by its Regional Director, also At Employees' State Insurance Corporation College and Hospital, Sanathnagar Sanjeevreddy 500 038 Hyderabad.

...APPELLANT/
RESPONDENT No.3

AND

1. M/s Murali Manpower Agencies, Having its registered office at H No 72503, SRT 282, 1st Floor, Sanath Nagar 500 018, Telangana, Rep. by its Proprietor, Muralidhar Chikkala.
2. Muralidhar Chikkala, S/o Chikkala Surya Rao, Aged about 43 years, Occ-Business, R/o Flat No 305, Eden C Lodha Apartments, Sanath Nagar, Hyderabad 500 018, Telangana. Respondents/ Writ Petitioners.

...RESPONDENTS/
WRIT PETITIONERS

3. Union of India, Represented by its Secretary, the Ministry of Labour and Employment, Shram Shakti BhaWan, Rafi Marg, New Delhi 110 001.
4. Employees State Insurance Corporation, Having its office at Panchdeep Bhawan, CIG Marg, New Delhi 110 002, Represented by its Director General.
5. Tender Evaluation Committee, Employees State Insurance Corporation Medical College and Hospital, Rep by its Convenor.

6. Isha Protective Security Guard Pvt Ltd, Having its registered office at F No S3 Plot No 275, Subhag Home Sarvadharam Colony, A-Sector, Kolar Road, Bhopal-462042, Madhya Pradesh, Having its branch office at P.No. 19/20, H.No. 3-105/38/A/8, Uday Nagar, Bhavani Nagar, Boduppal, Medipally, Medchal, Hyderabad-500 092.

...RESPONDENTS/
RESPONDENTS 1,2,4 & 5

I.A. NO: 2 OF 2026

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to suspend the operation of order dated 21.01.2026 passed in WP No. 34632 of 2025, pending disposal of the above writ appeal in this Honorable Court.

Counsel for the Appellant: SRI G.VENKATESHVARLU, SC FOR ESIC
Counsel for the Respondent Nos.1 & 2: SRI RAJASRIPATHI RAO, SENIOR COUNSEL FOR SRI PASHAM MOHITH
Counsel for the Respondent No.6: SRI E.MADAN MOHAN RAO, SENIOR COUNSEL FOR SRI M.P.K.ADITYA
Counsel for the Respondent Nos.3 TO 5: --

The Court made the following: JUDGMENT

IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD

THE HON'BLE THE CHIEF JUSTICE SRI APARESH KUMAR SINGH
AND
THE HON'BLE SRI JUSTICE G.M.MOHIUDDIN

WRIT APPEAL No.327 of 2026

DATE: 22.04.2026

Between:

Employees State Insurance Corporation

....Appellant

And

M/s.Murali Manpower Agenies and 5 others

....Respondents

JUDGMENT

Heard Sri G.Venkateshwarlu, learned Standing Counsel for Employees State Insurance Corporation (ESIC) appearing for appellant; Sri Rajasripathi Rao, learned Senior Counsel representing Sri Pasham Mohit leaned counsel appearing for respondent No.1 and 2 and Sri.E.Madan Mohan Rao, learned Senior Counsel representing Sri M.P.K.Aditya, learned counsel appearing for respondent No.6 and perused the record.

2. This writ appeal is preferred under Clause 15 of the Letters Patent, aggrieved by the order dated 21.01.2026 passed by the learned Single Judge in W.P.No.34632 of 2025. By the said order, the learned Single Judge allowed the writ petition filed by the respondent No.1 (writ petitioner) and set aside the tender award dated 28.08.2025 bearing No.GEM/2025/B/6488045 in favour of the respondent No.6, with a further direction to the appellant-Corporation to undertake a fresh technical evaluation of the bids strictly in accordance with the Guidelines dated 14.11.2024.

Factual matrix

3. The appellant–Corporation, namely the Employees' State Insurance Corporation (ESIC), through its Medical College and Hospital situated at Sanathnagar, Hyderabad, issued a tender notification dated 28.08.2025 on the Government e-Marketplace (GeM) portal, inviting bids for providing security manpower services across its campus for a period of one year. The estimated contract value was Rs.12,47,20,021/-, which formed part of the Corporation's institutional requirement for ensuring uninterrupted security services in a public healthcare establishment.

4. The tender in question was structured on the basis of the Quality-cum-Cost Based Selection (QCBS) methodology, prescribing a weightage of 30% for technical evaluation and 70% for financial evaluation. The appellant asserts that the said methodology was adopted in consonance with the Manual for Procurement of Non-Consultancy Services issued by the Department of Expenditure, Ministry of Finance, Government of India, which came into effect from 20.06.2025, and which governs procurement of outsourced services by public authorities, including statutory bodies such as the appellant.

5. In response to the aforesaid tender notification, a total of 62 bidders participated in the process. Upon preliminary scrutiny of the bids and documents uploaded on the GeM portal, 15 bidders were shortlisted for technical evaluation. Thereafter, upon detailed evaluation strictly confined to the materials uploaded within the stipulated time on the portal, 7 bidders were found technically qualified. The technical scores awarded to the qualified bidders ranged between 70 and 90 marks.

6. The respondent No.1, namely M/s Murali Manpower Agencies, which was also the existing service provider under an earlier contract dated 31.01.2023 (subsequently extended till 31.03.2024 and further extended as a stop-gap arrangement pending finalisation of a fresh tender), participated in the tender process and secured 77 marks in the technical evaluation, thereby being placed at Serial No.6 among the technically qualified bidders. In contrast, respondent No.6, namely, M/s Isha Protective Security Guard Pvt. Ltd., secured 90 marks, being the highest technical score among all qualified bidders.

7. Upon opening of financial bids, five bidders, including the respondent No.1 as well as respondent No.6, quoted identical financial bids of Rs.12,47,19,081.85, thereby emerging as H1 bidders in terms of financial quotation. In view of such parity in financial bids, the technical scores assumed determinative significance. Accordingly, respondent No.6, having secured the highest technical score, was declared the successful bidder under the QCBS framework and the contract was awarded in its favour.

8. The respondent No.1, being aggrieved by its non-selection, filed W.P.No.34632 of 2025 before this Court challenging the tender conditions, the technical evaluation process, and the ultimate award of contract. The principal contention urged by the writ petitioner was that the tender conditions and evaluation criteria were in deviation from the binding Guidelines dated 14.11.2024 issued by the ESIC Headquarters, which governed engagement of contractual manpower and prescribed the framework for technical evaluation, including turnover slabs and other parameters.

9. The learned Single Judge, by order dated 21.01.2026, allowed the underlying writ petition on the ground that the tender conditions and the technical evaluation were in derogation of the binding Guidelines dated 14.11.2024, and held that the deviation in turnover slabs, introduction of additional eligibility conditions, and the manner of technical evaluation were arbitrary, violative of Article 14 of the Constitution of India, and vitiated the tender process at its core. Consequently, the award of contract in favour of respondent No.6 was set aside and the appellant-Corporation was directed to undertake a fresh technical evaluation in accordance with the said Guidelines.

10. Aggrieved by the said order, the appellant-Corporation has preferred the present writ appeal.

Submissions on behalf of appellant

11. Learned Standing Counsel for Employees State Insurance Corporation (ESIC) appearing for the appellant, assailed the impugned order and has advanced his submissions as under:

i. That the learned Single Judge failed to appreciate that the scope of judicial review in contractual and tender matters is extremely limited. The learned counsel further contended that Constitutional Courts do not sit as appellate authorities over commercial decisions of the State and that interference is warranted only where the decision-making process is vitiated by arbitrariness, *mala fides,* perversity, or violation of statutory provisions. In support of the said proposition, he relied on the judgments of the Hon'ble Supreme Court in ***Tata Cellular v. Union of India***[1] and ***Jagdish Mandal v. State of Orissa***[2], wherein it has been authoritatively held that judicial review is concerned with the decision-making process and not the merits of the decision itself, and that interference is impermissible merely because another view is possible or preferable.

ii. That the respondent No.1, having participated in the tender process with full knowledge of the terms, conditions, eligibility criteria and evaluation methodology, is estopped from turning around and challenging the same upon being declared

[1] (1994) 6 SCC 651
[2] (2007) 14 SCC 517

unsuccessful. It is contended that a bidder who consciously accepts the tender conditions and takes part in the process cannot subsequently assail those very conditions after failing to secure the contract. Reliance in this regard is placed on ***Michigan Rubber (India) Ltd. v. State of Karnataka***[3], wherein the Hon'ble Supreme Court reiterated that such *post facto* challenges are impermissible in law.

iii. That the appellant, being the author of the tender document, is the best authority to understand and interpret its requirements. It is argued that the learned Single Judge erred in substituting his own interpretation in place of that of the tendering authority. Reliance is placed on the judgments in ***Afcons Infrastructure Ltd. v. Nagpur Metro Rail Corporation Ltd.***[4] and ***Silppi Constructions Contractors v. Union of India***[5], wherein it has been held that Courts must defer to the understanding and interpretation of tender conditions by the author thereof, unless such interpretation is found to be perverse, arbitrary or *mala fide*.

iv. That the learned Single Judge failed to record any finding of *mala fides*, bias, favouritism, arbitrariness or perversity in the conduct of the tender process or in the technical evaluation undertaken by the competent committee. In the absence of any

[3] (2012) 8 SCC 216
[4] (2016) 16 SCC 818
[5] (2020) 16 SCC 489

such foundational finding, it is contended that interference under Article 226 of the Constitution of India was wholly unwarranted as the entire evaluation was carried out strictly in accordance with the tender conditions and based solely on the documents uploaded by the bidders on the GeM portal.

v. That the respondent No.1 suppressed material facts before the learned Single Judge. It is specifically contended that no documentary proof substantiating the engagement of more than 40 personnel under the relevant contracts was uploaded by the respondent No.1 on the GeM portal at the time of evaluation. The evaluation was confined strictly to the documents submitted within the stipulated timeframe, and the alleged proof was produced only subsequently by way of an additional affidavit before the Court, which is nothing but an afterthought and beyond the permissible scope of consideration in a tender process.

vi. That the underlying writ petition suffered from non-joinder of necessary parties, inasmuch as other bidders who had emerged as H1 (ranked at serial Nos.2 to 5), and whose rights stood directly affected by the impugned order, were not impleaded as parties. It is contended that in matters relating to tender evaluation and award of contracts, all affected bidders are necessary parties, and the failure to implead them vitiates the proceedings.

vii. That the learned Single Judge erred in overlooking the applicability of the Manual for Procurement of Non-Consultancy Services, 2025, issued by the Department of Expenditure, Ministry of Finance, Government of India, which is binding on the appellant–Corporation, as the said Manual governs outsourcing of services and prescribes the framework for QCBS methodology, including the permissible turnover criteria. Placing reliance on Clause 5.1.9.1(c) of the said Manual, it is submitted that the prescription of average annual turnover ranging between three to seven times the estimated contract value is permissible, and the turnover requirement of approximately four times the contract value in the present case is lawful, reasonable and proportionate.

viii. That even the Guidelines dated 14.11.2024, relied upon by the respondent No.1, expressly provide that *"all other evaluation criteria shall be decided by the Heads of Offices based on their requirements."* It is contended that, in exercise of the said authority, the Head of Office constituted a Technical Committee, which formulated the evaluation parameters, including the graded marking system and the requirement relating to deployment of 40 personnel. These criteria were duly incorporated in the tender document and uniformly applied to all bidders. Having accepted such conditions, the respondent No.1 cannot now be permitted to assail the same.

ix. That the tender pertains to essential security services in a public hospital catering to a large number of patients, and the requirements of the institution were duly factored into the tender conditions. It is contended that the ESIC Medical College and Hospital at Sanathnagar was in the process of expansion, including addition of a new Out Patient Department (OPD) block and a 200-bed facility, which was expected to increase the requirement of security personnel by approximately 50%. Thus, the threshold of 40 personnel per contract represented only about 20% of the total manpower requirement and cannot be said to be arbitrary or exclusionary.

x. Reliance is also placed on a recent judgment of this Court in ***Sri Srinivasa Constructions v. State of Telangana***[6], wherein it has been held that the formulation of tender conditions lies within the domain of the employer and is not amenable to judicial review unless found to be patently arbitrary or irrational. It is submitted that the said principle squarely applies to the facts of the present case and the impugned order, which interferes with such domain, is liable to be set aside.

Submissions on behalf of the respondent No.1

12. Learned Senior Counsel for respondent No.1 has supported the impugned order and advanced his submissions as under:

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[6] W.A.No.280 of 2026 dated 09.03.2026

i) That the tender document itself expressly refers to and adopts the Guidelines dated 14.11.2024 issued by the ESIC Headquarters for engagement of contractual manpower, thereby making the said Guidelines the governing framework of the tender process. Having so adopted, the appellant–Corporation was bound to adhere to the said Guidelines in letter and spirit and could not deviate therefrom.

ii) That the introduction of ten different turnover slabs ranging from 10 to 20 marks, in place of the three slabs (10, 15 and 20 marks) prescribed under the Guidelines, constitutes a substantive and impermissible alteration of the evaluation framework. It is contended that no material has been placed on record to demonstrate that any approval or relaxation from the competent authority was obtained for such deviation, rendering the same ex facie illegal.

iii) That the prescription of a minimum average annual turnover of Rs.49,89,00,000/- for a contract valued at Rs.12,47,20,021/- is grossly disproportionate, irrational and violative of the doctrine of proportionality, which forms an integral facet of Article 14 of the Constitution of India. It is contended that such a condition operates to exclude otherwise competent bidders without any reasonable nexus to the object sought to be achieved.

iv) That the condition requiring proof of ongoing contracts involving deployment of a minimum of 40 outsourced personnel per contract finds no place in the Guidelines dated 14.11.2024 and is therefore wholly arbitrary and illegal. It is further contended that, in any event, the respondent No.1 had in fact deployed more than 40 personnel in its contracts by engaging relievers and additional manpower in compliance with labour law requirements, and the failure of the Evaluation Committee to take into account such actual deployment vitiates the evaluation.

v) That the appellant-Corporation itself, in its own contracts, had issued work orders indicating a certain number of personnel while the actual deployment was substantially higher to meet statutory obligations. By mechanically relying upon the figures mentioned in work orders without considering the actual deployment, the Evaluation Committee acted arbitrarily and without application of mind.

vi) That the respondent No.1 is an MSME entity owned by individuals belonging to SC/ST categories and had emerged as one among the H1 bidders. In terms of the Public Procurement Policy for Micro and Small Enterprises (MSEs) Order, 2012, such entities are entitled to preference. The failure of the appellant to consider this material aspect renders the technical evaluation procedurally flawed and substantively unfair.

vii) That a complaint dated 18.02.2025 contended by the ESIC Hospital Contract Workers Union before the Central Vigilance

Commission against respondent No.6, alleging illegal removal of employees and unlawful monetary demands, raises serious concerns regarding the suitability and integrity of respondent No.6 as a contractor. The failure of the appellant to take note of such material circumstances is stated to vitiate the decision-making process.

viii) That the reliance placed by the appellant on the Manual for Procurement of Non-Consultancy Services is misconceived and an afterthought, inasmuch as the tender document itself acknowledges the applicability of the Guidelines dated 14.11.2024. It is contended that the said Guidelines, being specific to ESIC and governing engagement of contractual manpower, would prevail over any general procurement manual, and the deviations therefrom cannot be justified by reference to the said Manual.

13. The respondents in support of their case relied on the following decisions:

a) *Haffkine Bio-Pharmaceutical Corpn. Ltd. v. Nirlac Chemicals and others*[7]
b) *Watergrace Products v. Nashik Municipal Corporation*[8]
c) *Hansraj & others v. ESIC & others*[9]
d) *Meerut Development Authority v. Association of Management Studies*[10]

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[7] (2018) 12 SCC 790
[8] 2025 SCC OnLine Bom 330
[9] W.P.(C).No. 705 of 2020 dated 18.10.2024
[10] (2009) 6 SCC 790

14. We have taken note of the respective contentions urged and perused the material on record including the tender documents, the Guidelines dated 14.11.2024, the Manual for Procurement of Non-Consultancy Services (2025), the evaluation sheets.

Consideration by this Court

15. Before adverting to the merits of the challenge, it is apposite to note the principles governing the scope of judicial review in matters relating to tenders and government contracts, which is no longer *res integra* and stands crystallized through a catena of authoritative pronouncements of the Hon'ble Supreme Court, consistently emphasizing judicial restraint in interfering with commercial and contractual decisions of the State.

16. The Hon'ble Supreme Court in ***N.G. Projects Ltd. v. Vinod Kumar Jain***[11], has held as under:

> *23. In view of the above judgments of this Court, the writ court should refrain itself from imposing its decision over the decision of the employer as to whether or not to accept the bid of a tenderer. The Court does not have the expertise to examine the terms and conditions of the present day economic activities of the State and this limitation should be kept in view. Courts should be even more reluctant in interfering with contracts involving technical issues as there is a requirement of the necessary expertise to adjudicate upon such issues. The approach of the Court should be not to find fault with magnifying glass in its hands, rather the Court should examine as to whether the decision-making process is after complying with the procedure contemplated by the tender conditions. If the Court finds that there is total arbitrariness or that the tender has been granted in a mala fide manner, still the Court should refrain from interfering in the grant of tender but instead relegate the parties to seek damages for the wrongful exclusion rather than to injunct the execution of the contract. The injunction or interference in the tender leads to additional costs on the State and is also against public*

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[11] (2022) 6 SCC 127

interest. Therefore, the State and its citizens suffer twice, firstly by paying escalation costs and secondly, by being deprived of the infrastructure for which the present day Governments are expected to work.

(Emphasis supplied)

17. It is pertinent to note that Clause 2.3 of the Guidelines dated 14.11.2024 expressly stipulates as under:

"2.3 The selection of agencies should invariably be done on the basis of Quality cum Cost based Selection (QCBS) criteria (70:30 for Technical and Financial evaluation) to ensure that only professional and competent contractors are awarded contracts so that the Statutory rights of the Contractual manpower are protected. An illustration of QCBS criteria in a bid has been provided as under:

S.No.	Particulars	Mark Breakup		Allocation of Marks		
				Min	Max	Actual
1.	Average Annual Turnover of the previous three financial years.		10	10	20	
			15			
			20			
2.	Total Experience of the firms	5 to 7 years	5	5	15	
		7 to 10 years	10			
		>10 years	15			
3.	Number of years of experience in relevant area in Govt./Semi-Govt./Autonomous Bodies/PSUs.	2 to 5 years	15	15	25	
		5 to 10 years	20			
		>10 years	25			
4.	Present operational contracts in the relevant field	2 to 3 contracts	10	10	20	
		4 to 5 contracts	15			
		> 5 contracts	20			
5.	Complaints addressing mechanism in human resource	Mechanism	10	5	10	
6.	Online Presentation	Presentation	10	5	10	
Total Marks of Evaluation		Maximum Marks	100			
		Qualifying Marks	50			

Further, all the other evaluation criteria shall be decided by the Head of Offices based on their requirements."

The said provision is couched in clear and unambiguous terms and confers discretion upon the Head of the local unit to formulate evaluation criteria having regard to the functional and institutional requirements of that unit. In the present case, the appellant–Corporation, acting through the competent authority, constituted a committee which recommended the evaluation parameters, including the graded marking system for turnover and the requirement relating to deployment of 40 personnel in ongoing contracts. The said exercise, being traceable directly to the enabling provision contained in the Guidelines themselves, cannot be faulted as being contrary thereto.

18. A careful reading of the Guidelines would indicate that the QCBS criteria set out therein is in the nature of an illustration. The expression *"An illustration of QCBS criteria in a bid has been provided as under"* makes it abundantly clear that the same is not intended to be rigid or exhaustive. When read in conjunction with the enabling clause empowering the Head of Office to determine *"all other evaluation criteria,"* it becomes evident that the Guidelines permit a degree of flexibility, enabling the procuring entity to adapt the evaluation framework to the exigencies of its specific operational requirements. The introduction of a graded marking system or additional parameters, therefore, cannot be construed as an impermissible deviation.

19. It is to be noted that the learned Single Judge did not adequately appreciate that the appellant–Corporation is equally bound by the Manual for Procurement of Non-Consultancy Services, 2025, issued by the Department of Expenditure, Ministry of Finance, Government of India. Clause 1.3 of the said Manual expressly makes it applicable to all Central Government Ministries/Departments, their attached and subordinate offices, as well as statutory bodies and public sector undertakings. The ESIC, being a statutory corporation under the Ministry of Labour and Employment, is clearly covered by the said Manual, which governs procurement of outsourced services.

20. Clause 4.3.2.4 of the Manual stipulates that the weightage assigned to non-financial (technical) parameters shall not exceed 30%, the same is extracted hereunder:

> ***"4.3.2 Quality and Cost Based Selection (QCBS)***
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> *****
>
> *4. The principles of QBCS shall be as provided in Rule 192(i), (ii), and (iii) of the GFR (Please refer to Manual for Procurement of Consultancy services for such principles). However, the maximum weight of the non-financial parameters shall in no case exceed 30%."*

The tender in question adopted a 30:70 ratio for technical and financial evaluation respectively, thereby strictly adhering to the mandate of the Manual. The learned Single Judge, while placing reliance on the ratio indicated in the Guidelines, failed to consider that, in the event of any inconsistency, the Manual being issued by the Ministry of Finance and coming into force on 20.06.2025, subsequent to the Guidelines, would prevail in governing the procurement framework.

21. It is also to be noted that the prescription of minimum average annual turnover was also in consonance with Clause 5.1.9.1(c) of the Manual, which permits the procuring entity to stipulate turnover criteria ranging between three to seven times the estimated cost of the contract, depending upon the nature and scale of services, which is extracted hereunder:

> ***"5.1.9 Qualification Criteria – Personnel Schedule; Critical Equipment Schedule***
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> *1. Qualification criteria are needed to determine whether a bidder has the required capacity/capability and credentials to successfully perform the contract. These Sections lay down the Qualifying Criteria for a bid/Bidder to be considered a responsive bid/bidder for further evaluation. Bids/bidders not meeting these Qualification criteria shall be rejected as nonresponsive. Unless otherwise stipulated, the Qualification Criteria shall include:*
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> ********
>
> *c) Financial Capability:*
>
> *i) Average Annual gross billing during the last three years, ending 31st March of the previous financial year, should be at least 3 times (for 1-3 years contracts) to 7 times (for contracts longer than 3 years) the estimated annual cost – as far as feasible based on the nature of service and market condition.*
>
> *Generally, the financial capability required in Non-consultancy services as a multiple of annual Tender value should be higher than the multiple in work because the service provider has to sustain the services over a long period of time, That is why a multiple of 3 to 7 is mentioned above.*
>
> *ii) Liquid assets and/or credit facilities, net or other contractual commitments and exclusive of any advance payments which may be made under the Contract, or no less than the amount specified in the Tender Document."*

In the present case, the estimated contract value being Rs.12,47,20,021/-, the minimum turnover was fixed at Rs.49,89,00,000/-, i.e., approximately four times the contract value. The said stipulation falls squarely within the permissible range and bears a rational nexus to the objective of ensuring that the bidder possesses the requisite financial capacity to execute a contract of such magnitude. Therefore, it cannot be characterized as arbitrary, disproportionate or exclusionary.

22. Further, the rationale underlying such stipulation, particularly in service contracts, is to ensure that the contractor possesses adequate financial capacity to sustain operations throughout the contract period, including timely disbursement of wages to deployed personnel; indeed, the tender document specifically stipulates that payment of wages is not contingent upon release of payment by the appellant-Corporation, thereby necessitating sufficient financial resilience on the part of the contractor.

23. It is also pertinent that the respondent No.1 itself had a turnover of Rs.60,55,57,475/-, i.e., approximately 4.85 times the contract value, and was thus not excluded by the turnover criterion but was found eligible and awarded 12 marks under the said parameter; the grievance, therefore, is not one of exclusion but of comparative scoring *vis-à-vis* respondent No.6, which secured higher marks on account of a higher turnover.

24. Further, the introduction of ten turnover slabs, as opposed to three, cannot be said to render the evaluation arbitrary, as the graded marking system was designed to enable finer differentiation between bidders and to avoid clustering of scores, particularly where financial bids were identical, and such an approach falls within the discretion vested in the tendering authority under Clause 2.3 of the Guidelines and cannot be termed as unreasonable or arbitrary.

25. It is also to be noted that the learned Single Judge invoked the doctrine of proportionality under Article 14; however the same has been misapplied. The requirement of proportionality is that the means adopted must not be excessive in relation to the object sought to be achieved. In tender matters, the object is to ensure selection of bidders with adequate technical and financial capacity. The turnover stipulation of approximately four times the contract value, being within the permissible range under public procurement norms, cannot be termed excessive or arbitrary. Further, the formulation of tender conditions lies within the domain of the procuring entity, and in the absence of manifest arbitrariness or lack of nexus, the Court ought not to substitute its own assessment of proportionality.

26. The learned Single Judge has taken the view that the condition requiring proof of ongoing security contracts involving deployment of a minimum of 40 outsourced contractual personnel per single contract was extraneous to the Guidelines dated 14.11.2024. However, it is not in dispute that the said condition was expressly stipulated in the tender document. The respondent No.1, with full knowledge of the eligibility criteria and evaluation parameters, chose to participate in the tender process and submitted its bid without demur. Having done so, it is not open to the respondent No.1 to turn around and assail the very same condition upon being declared unsuccessful.

27. Further, the condition in question cannot be said to be arbitrary or extraneous. As borne out from the tender document, the appellant–Corporation was in the process of expansion, including the addition of a new OPD block and a 200-bed facility, which was expected to substantially augment the requirement of security personnel. The stipulation requiring prior experience in handling contracts involving at least 40 personnel per site was intended to ensure that the bidder possesses the requisite organizational capacity and managerial experience to handle large-scale deployment. The threshold of 40 personnel, which constitutes only a fraction (approximately 20%) of the total manpower requirement of around 210 personnel, cannot be said to be either disproportionate or exclusionary.

28. In ***Poddar Steel Corporation. v. Ganesh Engg. Works***[12], the Hon'ble Supreme Court drew a distinction between essential conditions of a tender and ancillary or subsidiary conditions, holding that while the latter may admit of some relaxation, the former must be

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[12] (1991) 3 SCC 273

strictly complied with. The relevant para of the said decision is extracted hereunder:

> *6. It is true that in submitting its tender accompanied by a cheque of the Union Bank of India and not of the State Bank clause 6 of the tender notice was not obeyed literally, but the question is as to whether the said non-compliance deprived the Diesel Locomotive Works of the authority to accept the bid. As a matter of general proposition it cannot be held that an authority inviting tenders is bound to give effect to every term mentioned in the notice in meticulous detail, and is not entitled to waive even a technical irregularity of little or no significance. The requirements in a tender notice can be classified into two categories — those which lay down the essential conditions of eligibility and the others which are merely ancillary or subsidiary with the main object to be achieved by the condition. In the first case the authority issuing the tender may be required to enforce them rigidly. In the other cases it must be open to the authority to deviate from and not to insist upon the strict literal compliance of the condition in appropriate cases.....*
>
> *(Emphasis supplied)*

29. The requirement relating to the number of personnel deployed in ongoing contracts goes to the root of the bidder's technical capacity and experience and, therefore, constitutes an essential condition of the tender. The failure of the respondent No.1 to furnish requisite documentary proof in this regard, at the relevant stage, constituted a material non-compliance which the Evaluation Committee was justified in taking into account.

30. It is a well-settled principle that a tenderer who has participated in a tender process with full knowledge of its terms, conditions and evaluation criteria cannot subsequently turn around and challenge those very conditions upon being declared unsuccessful. In the case on hand, the respondent No.1 took part in the pre-bid meeting held on 08.09.2025 through its authorized representative. The minutes of the said meeting disclose that while certain queries were raised, no objection whatsoever was taken with regard to the turnover slabs, the requirement of deployment of 40 personnel per contract, or the QCBS weightage adopted in the tender. The respondent No.1, having thus accepted the tender conditions without demur and having submitted its bid in terms thereof, cannot be permitted to assail the same after having failed to secure the contract.

31. A careful perusal of the impugned order would disclose that the learned Single Judge has not recorded any finding of *mala fides,* favouritism, bias, arbitrariness or perversity in the conduct of the tender process or in the technical evaluation undertaken by the appellant-Corporation. The entire evaluation was carried out strictly in accordance with the terms and conditions of the tender and on the basis of the documents uploaded by the respective bidders on the GeM portal within the stipulated time. The bald allegation of the respondent No.1 that the tender conditions were "tailor-made" to favour respondent No.6 remains unsubstantiated and is not supported by any cogent material on record.

32. It is to be noted that the record indicates that respondent No.6 secured the highest technical score of 90 marks out of 100, whereas the respondent No.1 secured 77 marks. The difference in scoring is attributable to objective parameters, such as the turnover criteria where the respondent No.1 was awarded 12 marks as against 20 marks secured by respondent No.6 and the assessment of experience based on operational contracts, wherein only 5 out of 6 contracts of the respondent No.1 were found to satisfy the 40-personnel requirement, resulting in 15 marks as against 20 marks awarded to respondent No.6. These assessments were based on the documents furnished by the bidders and do not disclose any element of arbitrariness or subjectivity.

33. The reliance placed by the respondent No.1 on its MSME status and SC/ST ownership, though relevant within the framework of the Public Procurement Policy for Micro and Small Enterprises, 2012, cannot override the technical evaluation carried out in accordance with the tender conditions. The policy provides a sub-target of procurement from SC/ST-owned MSEs but does not confer any automatic or preferential right to award of contract in derogation of the prescribed eligibility criteria. In the present case, the tender conditions specifically stipulated that no exemptions would be granted. Moreover, the respondent No.6 also possesses a valid MSME certificate.

34. Insofar as the complaint stated to have been lodged before the Central Vigilance Commission against respondent No.6 is concerned, it is not shown that any adverse finding has been rendered pursuant thereto. Mere pendency of a complaint, in the absence of any established misconduct or disqualification under the tender conditions, cannot be a ground to exclude a bidder from consideration.

35. The underlying writ petition was instituted challenging the award of the tender in favour of respondent No.6; however, the record discloses that five bidders, including respondent No.6, had emerged as H1 bidders upon opening of the financial bids and were ranked at serial Nos.1 to 5. Any direction for fresh technical evaluation or interference with the tender process would necessarily and directly affect the rights and interests of all such bidders. It is a settled principle that in matters relating to tender evaluation and award of contracts all affected bidders are necessary parties, and the Court, before undertaking any exercise that may alter the outcome of the tender process, must ensure that all such parties are before it, as reiterated by the Hon'ble Supreme Court in ***Afcons Infrastructure Ltd*** (supra 4). In the present case, the respondent No.1 impleaded only respondent No.6 and omitted to implead the other H1 bidders ranked at serial Nos.2 to 5, whose rights stood equally affected by the relief sought; therefore, the underlying writ petition suffered from non-joinder of necessary parties.

36. Moreover, the respondent No.1's contention that, being the existing service provider, it had a legitimate expectation of continuation or award of the contract is devoid of merit. It is well settled that participation in a fresh tender process negates any claim for automatic renewal or continuation, and no vested right accrues in favour of an existing contractor to be awarded a subsequent contract, as public procurement mandates open competition and evaluation on objective criteria.

37. Further, the decisions relied upon by the respondents do not advance their case for the following reasons:

i. In ***Haffkine Bio-Pharmaceutical Corpn. Ltd.*** (supra 7), the Hon'ble Supreme Court interfered with the tender process due to lack of transparency, particularly the failure to open technical bids in the presence of bidders' representatives in violation of guidelines; however, the said decision is clearly distinguishable, as the present tender was conducted entirely on the Government e-Marketplace (GeM) portal, ensuring a transparent, electronic and tamper-proof process with all bids and evaluations digitally recorded. There is neither any allegation nor finding of procedural irregularity or lack of transparency, and the evaluation was carried out strictly on the basis of documents uploaded within time; the respondent No.1's failure to upload requisite proof cannot be attributed to the appellant.

ii. In ***Watergrace Products*** (supra 8), the High Court interfered with tender conditions on the ground of arbitrary deviation from applicable guidelines without justification, as the reasons were neither reflected in the tender nor supported by the record;

however, the said decision is inapplicable to the present case. Here, the appellant–Corporation has acted in conformity with the binding Manual for Procurement of Non-Consultancy Services, 2025, and the turnover requirement of approximately four times the contract value is expressly permissible under Clause 5.1.9.1(c) of the Manual. Unlike in ***Watergrace Products***'s case, the conditions are supported by cogent justification, namely, the expansion of the hospital necessitating enhanced security deployment, and the requirement of experience involving 40 personnel bears a clear nexus to the object sought to be achieved. Thus, no arbitrary deviation is made, and the ratio laid down in the said decision is clearly distinguishable.

iii. In ***Hansraj & Ors.*** (supra 9) the Delhi High Court dealt with termination of long-serving contractual employees and absence of a policy for their protection; however, the present case concerns the validity of tender conditions and evaluation of bidders, not employment continuity. The respondent No.1 was not disqualified but was technically qualified and ranked lower than respondent No.6 under the QCBS process. The said decision does not lay down any proposition which would confer a vested right on an existing contractor to secure a contract. Hence, the said decision is inapplicable.

iv. In ***Meerut Development Authority*** (supra 10), the Apex Court held that no bidder has a vested right to insist upon acceptance of its bid or seek alteration of tender conditions, and that the authority is entitled to act in its commercial wisdom subject to limited judicial review. Far from assisting the respondents, this principle supports the appellant. The respondent No.1, having participated in the tender process, cannot claim a right to be awarded the contract or seek re-evaluation on commercial grounds, particularly when its bid was duly assessed and ranked lower on objective criteria. The evaluation was conducted strictly on the basis of documents uploaded on the GeM portal without any midstream change in conditions, and the ratio of the said judgment thus militates against the challenge raised by the respondent No.1.

38. At this juncture, it is relevant to note that the tender in question pertains to provision of essential security services at a public Corporation/hospital run by the ESIC, providing services to insured persons and their dependents, which directly impacts the safety and security of patients, medical staff and visitors, and is therefore a matter of paramount public importance. Any disruption or uncertainty in the provision of such services would have serious implications for the functioning of the institution. The underlying writ petition was filed in November 2025 and the impugned order came to be passed in January 2026. Meanwhile, the services of the respondent

No.1 were continued by way of periodic extensions; however, such extensions are inherently temporary and cannot be a substitute for a duly concluded tender process. A direction for fresh technical evaluation at this stage besides being completely warranted would inevitably result in further delay in finalization of the tender and commencement of services by the successful bidder, thereby affecting institutional efficiency.

39. Further, this Court, in ***Sri Srinivasa Constructions*** (supra 6), has observed that reopening or reinitiating the tender process at an advanced stage is likely to entail considerable delay and may also impose an avoidable financial burden on the public exchequer. The Court emphasized that considerations of public interest and fiscal prudence must weigh with the Court while exercising jurisdiction in such matters. In the facts of the present case, the larger public interest in ensuring continuity, stability and efficiency in the provision of security services at a public corporation/hospital must outweigh the private commercial interests of an unsuccessful bidder. Judicial intervention, at this stage results in prolonging uncertainty or disrupting essential services, which would be contrary to the very principles governing public procurement.

Conclusion

40. For the foregoing reasons, this Court is of the considered view that the impugned order of the learned Single Judge is unsustainable.

The finding of deviation from the Guidelines dated 14.11.2024 is erroneous in view of Clause 2.3 thereof, which empowers the Head of Office to frame evaluation criteria, and the tender is otherwise compliant with the binding Manual for Procurement of Non-Consultancy Services, 2025. The respondent No.1, having participated without protest, is estopped from challenging the terms after being unsuccessful, and no *mala fides*, arbitrariness or perversity is found in the evaluation, which was conducted strictly on the basis of documents uploaded within time.

41. Accordingly, the Writ Appeal is allowed. The order dated 21.01.2026 passed by the learned Single Judge in W.P.No.34632 of 2025 is hereby set aside. W.P.No.34632 of 2025 stands dismissed. The tender award dated 28.08.2025 in favour of respondent No.6 is restored. It is directed that the appellant–Corporation is at liberty to proceed with the implementation of the said tender award in accordance with law.

As a sequel, miscellaneous petitions, pending if any, stand closed. No costs.

SD/- R. KARTHIKEYAN
JOINT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To

1. The Regional Director, Employees State Insurance Corporation, Having its regional office at Panchdeep Bhawan, 5923 Hill Fort Road, Adarsh Nagar, Hyderabad 500063, Telangana_ also At Employees' State Insurance Corporation College and Hospital, Sanathnagar Sanjeevreddy 500 038 Hyderabad.
2. The Secretary, Union of India, the Ministry of Labour and Employment, Shram Shakti BhaWan, Rafi Marg, New Delhi 110 001.
3. The Director General, Employees State Insurance Corporation, Having its office at Panchdeep Bhawan, CIG Marg, New Delhi 110 002.
4. The Convenor, Tender Evaluation Committee, Employees State Insurance Corporation Medical College and Hospital.
5. One CC to SRI G.VENKATESHVARLU, SC FOR ESIC [OPUC]
6. One CC to SRI PASHAM MOHITH, Advocate [OPUC]
7. One CC to SRI M.P.K.ADITYA, Advocate [OPUC]
8. Two CD Copies

HIGH COURT

DATED: 22/04/2026

JUDGMENT
WA.No.327 of 2026

ALLOWING THE WRIT APPEAL
WITHOUT COSTS

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27/04/26
K.B