IN THE HIGH COURT OF TELANGANA AT HYDERABAD

WRIT PETITION No.32249 OF 2025

Between:

Sri Babu Jagjeevan Ram S.C. Labour Contract Coop. Society Ltd.

... Petitioner

And

The Nizam Institute of Medical Sciences & Others

... Respondents

WRIT PETITION No.32250 OF 2025

Between:

M/s P. S. Man Power Suppliers **... Petitioner**

And

The Nizam Institute of Medical Sciences & Others

... Respondents

JUDGMENT PRONOUNCED ON: 08.06.2025

THE HON'BLE MRS. JUSTICE SUREPALLI NANDA

1. Whether Reporters of Local newspapers may be allowed to see the Judgment? : Yes

2. Whether the copies of judgment may be marked to Law Reporters/Journals? : Yes

3. Whether Their Lordships wish to see the fair copy of the Judgment? : Yes.

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MRS. JUSTICE SUREPALLI NANDA

IN THE HIGH COURT OF TELANGANA AT HYDERABAD

WRIT PETITION No.32249 OF 2025

% 08.06.2026

Between:

Sri Babu Jagjeevan Ram S.C. Labour Contract Coop. Society Ltd.

… Petitioner

And

$ The Nizam Institute of Medical Sciences & Others

… Respondents

< Gist:

> Head Note:

! Counsel for the Petitioner : Sri Ashok Anand Kumar, learned senior designated counsel representing Sri N.Gangadhar, learned counsel appearing on behalf of the petitioner on record.

^Counsel for Respondent Nos.1 & 3: Sri A.Sudharshan Reddy, learned Advocate General

^Counsel for Respondent No.2: Sri Raja Sripathi Rao, learned senior designated counsel representing Sri T.S.Anirudh Reddy, learned counsel on record.

WRIT PETITION No.32250 OF 2025

% 08.06.2026

Between:

M/s P. S. Man Power Suppliers

… Petitioner

And

$ The Nizam Institute of Medical Sciences & Others

… Respondents

< Gist:

> Head Note:

! Counsel for the Petitioner : Sri C.Damodar Reddy, learned senior designated counsel representing Sri S.Abhay Kumar Sagar, learned counsel appearing on behalf of the petitioner on record.

^Counsel for Respondent Nos.1 & 3: Sri A.Sudharshan Reddy, learned Advocate General.
^Counsel for Respondent No.2: Sri Raja Sripathi Rao, learned senior designated counsel representing Sri T.S.Anirudh Reddy, learned counsel on record.

? Cases Referred:

i. **(2007) 14 SCC 517**
ii. **(2016) 16 SCC 818**
iii. **(2016) 15 SCC 272**
iv. **1994(6) SCC Page 651**
v. **2020 SCC Online SC 1035**
vi. **(2000) 2 SCC 617**
vii. **(2025) SCC Online SC 1959**
viii. **Apex Court judgment, dated 19.05.2023 in Civil Appeal No.3897 of 2023**
ix. **2025 SCC Online SC 2496**
x. **(2022) 6 SCC 127**
xi. **(2018) 2 SCC 176**
xii. **The Division Bench judgment of the High Court of Patna in Civil Writ Jurisdiction Case No.14030 of 2025, dated 24.09.2025**

IN THE HIGH COURT OF TELANGANA AT HYDERABAD

HON'BLE MRS. JUSTICE SUREPALLI NANDA

WRIT PETITION Nos.32249 & 32250 OF 2025
DATED: 08.06.2026

WRIT PETITION No.32249 OF 2025

Between:

Sri Babu Jagjeevan Ram S.C. Labour Contract Coop. Society Ltd.
... Petitioner

And

The Nizam Institute of Medical Sciences & Others
... Respondents

WRIT PETITION No.32250 OF 2025

Between:

M/s P. S. Man Power Suppliers **... Petitioner**

And

The Nizam Institute of Medical Sciences & Others
... Respondents

COMMON ORDER:

WRIT PETITION No.32249 OF 2025

Heard Sri Ashok Anand Kumar, learned senior designated counsel representing Sri N.Gangadhar, learned counsel appearing on behalf of the petitioner on record, Sri A.Sudharshan Reddy, learned Advocate General

appearing on behalf of the respondent Nos.1 & 3 and Sri Raja Sripathi Rao, learned senior designated counsel representing Sri T.S.Anirudh Reddy, learned counsel appearing on behalf of the respondent No.2 on record.

<u>WRIT PETITION No.32250 OF 2025</u>

Heard Sri C.Damodar Reddy, learned senior designated counsel representing Sri S.Abhay Kumar Sagar, learned counsel appearing on behalf of the petitioner on record, Sri A.Sudharshan Reddy, learned Advocate General appearing on behalf of the respondent Nos.1 & 3 and Sri Raja Sripathi Rao, learned senior designated counsel representing Sri T.S.Anirudh Reddy, learned counsel appearing on behalf of the respondent No.2 on record.

2. <u>The petitioner approached the Court seeking prayer in W.P.No.32249 of 2025 as under:</u>

> "...to issue a Writ order or orders more particularly, one in the nature of Writ of Mandamus declaring the action of the 1st Respondent in awarding work order to the ineligible 2nd Respondent through Rc.No.Plng-1/55/2019/ LC dated 16.10.2025, pursuant to the Tender Notice No. Rc. Plng-1/55/2019/LC dated 18.07.2025 who was doing a business

activity not mentioned in their Memorandum of Association contrary to Section 10 of the Companies Act, 2013 giving experience certificates which do not fulfill the criteria prescribed in the tender notification dated 18.07.2025 by erroneously rejecting the tender document of the Petitioner without considering the objections/ representations 28.07.2025 and on 6.10.2025 submitted by the Petitioner as malafide arbitrary and violates the Article 14 of the Constitution of India and consequently set aside the work order issued to the ineligible 2nd Respondent through Rc. No.Plng-1/55/2019/ LC dated 16.10.2025 pursuant to the Tender Notice No.Rc. Plng-1/55/2019/LC dated 18.07.2025 and pass...”

3. **The petitioner approached the Court seeking prayer in W.P.No.32250 of 2025 as under:**

“...to issue a Writ order or orders more particularly one in the nature of Writ of Mandamus declaring the action of the 1st Respondent in awarding work order to the ineligible 2nd Respondent through Rc.No. Plng-1/55/2019/ LC dated 16.10.2025 pursuant to the Tender Notice No. Rc. Plng-1/55/2019/LC dated 18.07.2025 who was doing a business activity not mentioned in their Memorandum of Association contrary to Section 10 of the Companies Act, 2013 giving experience certificates which do not fulfil the criteria prescribed in the tender notification dated 16.10.2025 by erroneously rejecting the tender document of the Petitioner without considering the objections/ representations 28.07.2025 and on 06.10.2025 submitted by the Petitioner as malafide arbitrary and violates the Article 14 of the Constitution of India and consequently set aside the work order issued to the ineligible 2nd Respondent through Rc.No.Plng-1/55/2019/ LC dated 16.10.2025 pursuant to the Tender Notice No. Rc. Plng-1/55/2019/LC dated 18.07. 2025...”

The 2nd respondent is common in both the aforesaid writ petitons.

4. The case of the petitioner, in brief, as per the averments made by the petitioner in the affidavit in W.P.No.32249 of 2025 by the petitioner in support of the present writ petition, is as under:

The petitioner Society was registered on 18.02.2002 and had been engaged in supplying outsourced manpower and housekeeping services to the 1st Respondent Institution i.e., NIMS since 01.12.2008. The petitioner society had participated in a tender process initiated by NIMS through Tender *Notice Rc. No. Plng-1/55/2019/LC dated 18.07.2025* for supply of manpower for *Area No. 2* for the period 2025–2027. Pursuant to the tender notification, a pre-bid meeting had been conducted on 28.07.2025 in which five bidders had participated. Two bidders were eliminated and the remaining three bidders i.e., the petitioner, the 2nd respondent company, and another bidder had been qualified for further consideration.

During the pre-bid stage, the petitioner had raised several objections relating to solvency requirements, experience criteria, labour licences, employee strength, wage payments, EPF, ESI and other eligibility conditions. Acting on such objections, NIMS issued a corrigendum clarifying and modifying certain tender conditions. The petitioner thereafter submitted its bid along with an Earnest Money Deposit of ₹25 lakhs and all supporting documents. Despite submitting representations by the petitioner society on 28.07.2025 and again on 06.10.2025 questioning the eligibility of the 2nd respondent and seeking proper technical evaluation, no action had been taken by the 1st Respondent Institution.

The technical evaluation process lacked transparency and excessive marks had been awarded to the 2nd respondent arbitrarily. A video presentation was conducted on 14.10.2025 and a technical score committee report was submitted on 15.10.2025, and the Director approved the proposal on the same day. Thereafter, NIMS issued a work order in favour of the 2nd respondent on 16.10.2025. Aggrieved thereby, and after submitting a further representation on 21.10.2025 to the Government alleging irregularities, the petitioner had approached this court by filing the present writ petition seeking quashing of the work order and continuation of its existing services pending adjudication.

5. <u>The case of the petitioner, in brief, as per the averments made by the petitioner in the affidavit in W.P.No.32250 of 2025 by the petitioner in support of the present writ petition, is as under:</u>

The petitioner is a proprietary concern registered as M/s. P.S. Man Power Suppliers under Registration No. ACL-II/HYD/17/2007. The petitioner is engaged in supplying manpower, housekeeping, sanitation, and other incidental services to various institutions, including the 1st Respondent Institution i.e., NIMS. The firm renewed its labour registration on 25.11.2024 for the period from 01.01.2025 to 31.12.2025 and possessed all requisite statutory registrations. The petitioner society had participated in a tender process initiated by NIMS through Tender *Notice Rc. No. Plng-1/55/2019/LC dated 18.07.2025* for supply of manpower for *Area No. 1* for the period 2025–2027.A pre-bid meeting was conducted on 28.07.2025 in which five bidders had participated. Following scrutiny, only three bidders, namely the petitioner, M/s. Quality Property Management Services Pvt. Ltd. (2nd respondent Company, and

Sri Babu Jagjeevan Ram S.C. Labour Contract Co-operative Society Ltd., remained in the process.

During the pre-bid stage, the petitioner raised several objections concerning eligibility conditions, experience requirements, solvency, labour deployment, wage payments, and statutory compliance. Pursuant thereto, 1st Respondent Institution issued a corrigendum clarifying various tender conditions. The petitioner thereafter submitted its bid along with an Earnest Money Deposit of ₹25 lakhs and furnished all required documents. Subsequently, relying upon Government guidelines dated 19.08.2022 and tender conditions adopted by the State Government on 22.11.2024 regarding manpower deployment in hospitals, work order in favour of 2nd respondent had been issued on 16.10.2025 by NIMS. The petitioner questioned the eligibility of the 2nd respondent and submitted representations on 04.10.2025, 08.10.2025, and 16.10.2025.

A video presentation was conducted on 14.10.2025 and a technical score committee report was submitted on 15.10.2025, and the Director approved the proposal on the same day. Thereafter, by proceedings Rc. No. Plng-1/55/2019/LC dated 16.10.2025, 1st Respondent Institution awarded the contract to the 2nd respondent without addressing the petitioner's objections. Aggrieved by the same, the petitioner had approached this court by filing the present writ petition seeking quashing of the work order and continuation of its existing services pending adjudication.

6. PERUSED THE RECORD:-

A. This Court passed interim orders, dated 25.10.2025 in I.A.No.01 of 2025 in both the writ petitions i.e., in W.P.No.32249 & 32250 of 2025 in favour of the petitioners and the same is extracted hereunder:-

> Heard Mr. Ashok Anand Kumar, learned Senior Counsel appearing for the petitioner (in W.P.No.32249 of 2025); and Mr. C. Damodar Reddy, learned Senior Counsel appearing for the petitioner (in W.P.No.32250 of 2025); and Mr. Raja Sripathi Rao, learned Senior Counsel appearing on behalf of the respondent No.2 (in both the writ petitions); and learned Standing Counsel for respondents-NIMS, Hyderabad.
>
> It is the contention of the learned Senior Counsel Mr. Raja Sripathi Rao that the Work Order has been issued on 21.10.2025, after conducting due tendering process.
>
> At the request of learned Standing Counsel for respondents-NIMS, and learned Senior Counsel Mr. Raja Sripathi Rao, for respondent No.2, to file their respective counter affidavits, list these writ petitions on 27.10.2025. The existing mechanism would continue at the instance of the respondents-NIMS till then.

The said order is in force as on date.

B. The counter affidavit filed on behalf of the respondent No.1 in W.P.No.32249 of 2025 and in particular at para Nos.6,11 & 13 to 19 are extracted hereunder:-

6. In reply to the contents of Para 2 of the Writ Petition, it is submitted that the same is specifically denied, insofar as, it is alleged that the award of Work Order dated 16.10.2025, to the 2nd Respondent was mala fide, arbitrary or illegal.

It is submitted that, the awarding of Work Order with Rc. No: Ping-1/55/2019/LC dated 16.10.2025, in favour of the 2nd Respondent was done after full and proper evaluation under the Quality cum Cost Based Selection (QCBS) methodology, strictly in accordance with the tender documents, corrigendum dated 14.08.2025, and all applicable institutional approvals and procedures.

It is submitted that, the entire tender process was conducted through the e-procurement platform of the Government of Telangana, which ensures complete transparency and prevents any manual intervention or scope for favouritism. The system is foolproof and all actions are time-stamped and recorded electronically.

The technical evaluation of all the bidders was carried out by Evaluation Committees, comprising of senior officers and experts. The evaluation was conducted strictly as per the technical criteria prescribed under Clause 9.3 of the Tender Notice. All technically qualified bidders were then subjected to financial bid evaluation. The 2nd Respondent emerged as the H1 bidder (highest scorer under QCBS), through the automated system.

All the particulars and details of the technical evaluation, the respective qualifications and all the documents were uploaded and were made available for the bidders benefit of all the bidders, from 04.09.2025, in the E-portal.

Therefore, the allegation that the award was arbitrary, mala fide or illegal is completely baseless and devoid of merit and is liable to be rejected.

11. The contents of Para 8 are admitted, insofar as, it relates to the factum that, a pre-bid meeting was held on 28.07.2025. The pre-bid meeting along with the Power Point presentation made during the meeting and all doubts raised during the tender evaluation process

was clarified to all the bidders. The petitioner queries and all the other bidders participated in the tender process and all quarries were clarified. **The petitioner, having participated in the pre-bid meeting is now estopped from questioning the tender conditions or the evaluation process.** It is specifically denied that, only 5 bidders participated in the pre-bid meeting. It is submitted that eleven (11) bidders participated in the pre-bid meeting, and not five as incorrectly mentioned by the Petitioner. It is further submitted that, during the pre-bid meeting, various queries and clarifications were raised by the participating bidders including the petitioner regarding the tender terms and conditions, eligibility criteria, scope of work, technical evaluation methodology, and other related matters. It is submitted that, the pre-bid qualifications and eligibility criteria were thoroughly discussed during the meeting, and it was explained that, the screening and evaluation would be conducted strictly as per the tender terms and conditions. No bidder was "eliminated" at the pre-bid stage. All bidders who submitted valid bids with requisite EMD were evaluated during the technical evaluation stage. The petitioner acquiesced himself to the entire tender process and evaluation.

13. The contents of Para 10 of the Writ Petition are specifically denied insofar as, the Petitioner has alleged that, NIMS did not follow the guidelines of the Directorate of Medical Education (DME) or the Telangana Government guidelines for tendering. It is respectfully submitted that Nizam's Institute of Medical Sciences (NIMS) is a Statutory Institute established under the NIMS Act, 1989, enacted by the erstwhile Government of Andhra Pradesh and now governed under the State of Telangana. Due to its autonomous status, under a special State Act, NIMS has its own institutional governance structure, administrative procedures, and procurement systems. It is submitted that, as per the tender terms and the Corrigendum issued, the eligibility criteria under Section III - Eligibility Criteria (Clause 3.1.2), require specific past experience in hospitals and patient care services. The relevant clause states as under.

"The Agency should have executed Patient Care Services, Housekeeping, Sanitation and Incidental Works in not less than 500 manpower in any Government Super Specialty Hospital(at least one) with minimum total bed strength of at least 500 beds during the last three years."

Similarly, as per Section IV (Clause 4.1.3), the experience-related criterion states: Pre-Qualification Evaluation

"Minimum experience of 3 years in Patient Care Services, Housekeeping, Sanitation and Incidental Works in last three consecutive years in any Government Super Specialty Hospital (at least one) preceding the last date of submission of tender."

It is submitted that as per the above tender conditions, the interested tenderer must have worked in any Government Super Specialty Hospital for the last three consecutive years, having 500 or more beds and deploying 500 or more manpower in Patient Care, Sanitation, Housekeeping, and Incidental Works. The 2nd Respondent has duly satisfied all these eligibility conditions as evidenced by the documents submitted during the tender process, including the Experience Certificate and the Agreement with Osmania General Hospital, which have been verified and found to be in order. Therefore, the contention that, NIMS did not follow proper guidelines or procedures, is completely misconceived and devoid of merit.

14. The contents of Para 11 are denied, insofar as, the Petitioner has alleged that, NIMS failed to consider the representations made by the Petitioner or that the award of Work Order was improper, arbitrary or mala fide. It is submitted that, the tender process for outsourcing of Patient Care Services, Housekeeping, Sanitation and Incidental Works at NIMS was conducted in a transparent, fair, and time-bound manner as detailed below:

i) on 28.07.2025 with Pre-Bid Meeting: Conducted PowerPoint presentation (Annexure R-2)

ii) Corrigendum to Pre-Bid Queries: Uploaded on the e-procurement portal on 14.08.2025, incorporating all approved representations received during the pre-bid meeting (Annexure R-3)

Extension of Tender Closure Date: Extended up to 01.09.2025 to allow adequate time and participation by interested bidders

iv) Opening of Bids: Conducted on 04.09.2025 through the e-procurement portal.

It is submitted that during the pre-bid stage, various representations were received from interested tenderers. All clauses that genuinely required modification or clarification were appropriately addressed and included in the Corrigendum dated 14.08.2025. Specifically, with regard to Clause 9.3- Criteria for Technical Evaluation (QCBS). All necessary clarifications were provided in the Corrigendum, and the evaluation criteria were clearly defined and made available to all bidders well in advance. However, it is submitted that, the Petitioner raised objections only after the bid opening through its letter dated 06.10.2025, which was clearly a post-tender closure communication.

It is submitted that in the said letter dated 06.10.2025, the Petitioner requested tailor-made specifications for evaluation under QCBS criteria by demanding that, experience should be considered only in a single Government Super Specialty Hospital. The petitioner cannot claim for alteration of the terms of contract and cannot demand for changes in the tender conditions. Tender conditions are prescribed to get the best tenderers for a fair competition.

It is submitted that, as these requests and objections were raised after the tender closure on the e-procurement portal, the competent authority was not empowered to alter or modify the tender conditions in accordance with standard and fair procurement practices and established legal principles.

It is a well-settled principle that, post-tender modifications to suit the convenience of a particular bidder would vitiate the entire tender process and would be arbitrary, discriminatory, and violative of Article 14 of the Constitution of India. Therefore, the representation dated 06.10.2025 could not be entertained, and the tender evaluation proceeded strictly as per the original tender terms and the Corrigendum dated 14.08.2025.

After completion of the technical and financial evaluation as per the QCBS methodology, the Work Order with Rc. No: Ping-1/55/2019/LC dated 16.10.2025 was issued to the 2nd Respondent, who emerged as the successful bidder (H1), through a transparent and competitive process.

15. The contents of Para 12 are specifically denied, insofar as, the Petitioner has alleged that the Memorandum of Association (MOA) of the 2nd Respondent disqualifies it from participating in the tender process.

The MOA of the 2nd Respondent includes comprehensive clauses covering manpower supply, housekeeping, janitorial, sanitation, patient care, security, and facility management services, which squarely cover the scope of services required under the Tender Notice dated 18.07.2025. It is submitted that a reading of the MOA of the 2nd Respondent clearly shows that it has been incorporated, inter alia, for providing services pertaining to property/facility management including upkeep and maintenance of domestic and commercial spaces/buildings and further providing manpower services including security, sanitation/housekeeping, patient care, and other support services for any facility/property. Therefore, clear understanding of the objects captured in the Memorandum of Association clearly evinces that, the 2nd Respondent is fully competent to provide services of such nature to the hospitals as well.

It is submitted that the 2nd Respondent has, in fact, had been providing such services to various reputed hospitals including Osmania General Hospital, Hyderabad; Christian Medical College, Vellore; Tamil Nadu Government Hospitals, and other healthcare institutions for several years.

Therefore, the contention that the 2nd Respondent is in-eligible to participate in the Tender, is without any legal or factual basis and is devoid of any merit.

It is submitted that the Petitioner has raised a frivolous objection solely as an afterthought in order to stall the tender process.

16. The contents of Para 13 are specifically denied.

It is submitted that the Experience Certificate furnished by the 2nd Respondent from Osmania General Hospital (OGH) has been duly certified by the Civil Surgeon/Administrator/RMO-I, who is a Gazetted Officer and is fully competent to issue such certificates on behalf of the hospital administration. The certificate issued by a Gazetted Officer such as the Civil Surgeon/RMO-I is a valid and an authentic document.

The Agreement between Osmania General Hospital and the 2nd Respondent, which has been duly signed by the Superintendent, OGH, also confirms the same details regarding bed strength and manpower deployment, thereby providing corroborative proof of the 2nd Respondent's experience and eligibility.

It is submitted that the tender for all Government hospitals across the State of Telangana, including Osmania General Hospital, Hyderabad, were floated by taking into consideration the reckonable bed strength of the hospital and not on the sanctioned bed strength.

It is submitted that reckonable bed strength is a standard and recognized parameter used by the Government hospitals for calculating the requirement of manpower, consumables, and services. The reckonable bed strength takes into consideration the actual operational capacity of the hospital, including outpatient services, emergency services, and additional beds utilized during peak periods.

It is further submitted that the relevant document to decide upon the requirement and deployment of manpower in the present case is the Osmania General Hospital Tender Document with Tender No: E10/OGH/Hyderabad District/IHFMS/2022-23, dated 25.04.2022, through which the 2nd Respondent was allotted IHFMS contract at Osmania General Hospital.

It is submitted that the reckonable bed strength of Osmania General Hospital is 1,752 beds, i.e., 150% of the sanctioned bed strength, which is 1,169 beds. This is in accordance with the standard practice followed by the Government of Telangana for calculating operational capacity of hospitals.

Since for every 100 reckonable beds there should be 19 persons for sanitation/pest control, the number of personnel to be deployed for sanitation against reckonable bed strength of 1,752 beds shall be 333 personnel.

Similarly, since the staff to be deployed towards patient care is 13 persons per 100 reckonable beds, the number of personnel to be deployed for patient care against reckonable bed strength of 1,752 beds shall be 228 personnel.

Therefore, in total, the 2nd Respondent has deployed 563 personnel (333 sanitation + 228 patient care + security staff), thereby meeting and exceeding the tender requirements. Consequently, The submission that, the Experience Certificate is improper or based on incorrect calculations, is completely devoid of any merit, for the reasons stated above.

17. It is further submitted that as per the tender terms and conditions, the interested tenderer must have worked in any Government Super Specialty Hospital for the last three years having 500 or more beds and deploying 500 or more manpower. The 2nd Respondent has satisfied both these eligibility conditions based on its experience at Osmania General Hospital, which has:

i) Sanctioned bed strength: 1,162 beds (exceeds 500 beds)
ii) Reckonable bed strength: 1,752 beds (exceeds 500 beds
iii) Manpower deployed 563 manpower). personnel (exceeds 500

Therefore, the 2nd Respondent is fully eligible and qualified to participate in the tender, and the allegations raised by the Petitioner are frivolous, and raised solely with an intention to defeat the tender process and the award of contract to of the 2nd Respondent.

18. The contents of Para 14 & 16 are specifically denied, insofar as the Petitioner has alleged that the technical evaluation criteria, particularly with regard to allocation of points under Clause 9.3, was applied arbitrarily, without guidelines, or with bias towards the 2nd Respondent. It is submitted that Clause 9.3 of the Tender Notice, clearly provides the criteria for technical evaluation under the Quality and Cost Based Selection (QCBS) methodology. Rule 192 of GFR

(General Financial Rules)-2017, issued by Government of India prescribes the conditions and scores to be awarded against each technical criterion. As per the Corrigendum to Tender Clause 9.3, the Technical Evaluation Criteria was clearly defined as follows:

Sl.No	Technical Criteria	Conditions	Score	Remarks
3	Sanctioned Bed Strength	1000 or above bed strength	20	Services in any one single Government Super Specialty Hospital with housekeeping/sanitation, patient care with not less than 500 manpower

It is respectfully submitted that the tender evaluation was conducted strictly in accordance with the Quality and Cost Based Selection (QCBS) methodology as prescribed in the tender document.

Under the QCBS procedure, the technical evaluation of eligible bidders who meet the pre-qualification criteria is carried out first, and only those bidders who qualify technically are considered for the financial bid evaluation.

It is submitted that the first technical criterion (Point 1) pertains to the number of years of relevant experience, and it is not linked to other criteria.

Clause 9.3.1 and the Corrigendum, the Tender Inviting Authority (TIA) is mandated to evaluate the bidder's experience only in relation to the nature of services rendered i.e., namely, Housekeeping, Sanitation, Patient Care, and Incidental Works.

The intention of this clause is to assess the continuity, relevance, and depth of service experience of the bidder, not the scale or type of deployment. This is a separate and distinct criterion from Clause 9.3.3, which specifically addresses bed strength and manpower deployment.

The experience of the 2nd Respondent gained from various institutions including:

i) Sri City Pvt. Ltd., Tirupathi

ii) Dr. Aggarwal Eye Hospital, Chennai

Sri Ramchandra Hospital, Chennai

iv) Ravindranath GE Medical Associates Pvt. Ltd. (Gleneagles Hospitals), Chennai

v) Christian Medical College (CMC), Vellore

vi) Osmania General Hospital, Hyderabad

vii) DME, Chennai

viii) DMRHS, Chennai

ix) PVR Limited, Gurgaon

x) Reliance Projects & Property Management Services Limited, Chennai

was considered valid under this criterion, for the purpose of determining the number of years of experience, thereby fulfilling the required technical condition of "above 7 years experience" and accordingly awarding 20 marks under this head.

It is submitted that all the technically qualified bidders were evaluated uniformly and consistently in accordance with Clause 9.3.1, ensuring transparency, fairness, and adherence to the QCBS methodology as stipulated in the tender conditions. The scores awarded to the qualified bidders is strictly as per the technical critical prescribed under the tender conditions.

C. <u>Relevant portion of G.O.Ms.No.31, dated 12.03.2022 issued by the Secretary to the Government, Helath Medical & Family Welfare(C2) Department is extracted hereunder:-</u>

3. Accordingly, the following orders are issued

i Reckonable Bed Strength (RBS) to be taken as the basis rather than -Sanctioned bed strength as per actual bed occupancy of last year or 50% whichever is higher.

ii. The policy of providing manpower @ 1 person for 7000 SFT built up area and 1 person per 27,000 SFT for open area, which was currently applicable to Medical Colleges, is also extended to nursing colleges & nursing schools (including hostels).

iii. Separate tenders shall be invited for the institutes/hospitals which have 200 beds and above.

iv. Hospitals with less than 200 beds shall be clubbed while calling tenders as per feasibility.

V Bid variable shall be management cost as percentage of total cost of service (based on bed strength/built up/open area) subject to upper limit of 5%.

vi. Tenders shall be called at District level under committee headed by Collector.

D. <u>Clause 7.3.4 of the tender condition of the e-Tender document vide Tender No:E10/OGH/Hyderabad District/IHFMS/2022-23, dated 25.04.2022 is extracted hereunder:-</u>

7.3. 4. he quality of sanitation in all the areas and facilities specified in Appendix-1 shall be inspected by the Supervisory staff of the Hospital nominated by the Superintendent of the Hospital, consisting of RMO's, HOD's, Civil Surgeons and Asst. Surgeons. The Supervisory Officers shall make rounds in the areas allocated at the prescribed frequency every day and submit report to the Superintendent in the prescribed format every day.

E. <u>Clause 2.4 & 2.5 of Manpower supply agreement, dated 21.10.2025 entered between Nizam's Institute of Medical Sciences and M/s. Quality Property Management Services Pvt.Ltd. is extracted hereunder:-</u>

2.4 That the period of contract for supply of Manpower services shall be 2 years with effect from the date of execution of the agreement or commencement of the services, whichever is earlier, subject to fulfillment of the terms and conditions stipulated in the tender document and herein below.

2.5 The period of contract for supply of Manpower services by the Contractor herein will be 2 years with effect from 26/10/2025, unless it is curtailed or terminated by the NIMS owing to deficiency of service, sub-standard quality of personnel deployed, breach of contract, reduction or cessation of the requirements of work.

<u>F. Clause 3.1.2 of the Tender condition vide Rc.No.Plng-1/55/2019/LC, dated 18.07.2025 of the respondent No.1 is extracted hereunder:-</u>

3.1.2 Required specific past experience in Hospitals (Patient care services):
The Agency should have executed patient care services not less than 500 man power in any Government Super Speciality hospitals with minimum total bed strength of at least 500 beds during the last three years, minimum total bed strength of at least 500 beds during the last three years.
Note: The bidder should produce the roof of the above experience by submitting the copies of contracts executed by the bidder in the past clearly specifying the no.of beds/bed strength issued by the competent Authority.

G. <u>Clause 8.1(i) of the Tender condition vide Rc.No.Plng-1/55/2019/LC, dated 18.07.2025 of the respondent No.1 is extracted hereunder:-</u>

Clause 8.1(i): Experience certificate should include contract commencement date, No.of workers deployed, years of experience i.e., period worked, bed strength in case of hospitals and comment on performance of the bidder.

H. <u>Clause 9.3.1 of the Tender condition vide Rc.No.Plng-1/55/2019/LC, dated 18.07.2025 of the respondent No.1 is extracted hereunder:-</u>

<u>**Clause 9.3.1"-**</u> Those bidders who satisfy the Pre-Qualification Criteria shall only be further considered for selection on the basis of Quality cum Cost Based Selection (QCBS) criteria.

Sl.No.	Technical Criteria	Conditions	Score	Remarks
1	No.of Years of Experience	i) Minimum of 3 to 5 years	10	Firm Incorporation documents to be submitted TIA shall evaluate the Agreements/work orders and experience certificates submitted by the bidders. To determine the years of experience TIA shall consider the date of earliest work order/agreement including the experience/performance certificate.
		ii) Above 5 Years upto 7 Years	15	
		iii) Above 7 years	20	
2	Average Annual Turnover from Sanitation, Patient Care services, House keeping and incidental works during 2022-23, 2023-24 and	i) Minimum 15 crores up to 20 crores	10	Turnover from the Sanitation/Housekeeping & Patient Care Services shall be ascertained from Turnover Certificate issued by a Chartered Accountant with UDIN
		ii) Above 20 Crores up to 25 crores	15	

	2024-25	iii) Above 25 Crores	20	
3	Highest Sanctioned Bed Strength of any one single Govt.super specialty hospital where the bidder has been providing sanitation, Patient Care Services, House Keeping and Incidental works not less than 500 man power during the last 3 years continuously till the last date of bid submission of tender	i)Minimum 500 beds Below 750	10	Bed Strength of any one single Govt.super speciality hospital will be ascertained based on the Experience Certificate and Agreement concluded by the bidders with respective hospitals
		ii) Above 750 but below 1000	15	
		iii) 1000 or above beds	20	
4	No.of Employees on roll continuously during the last 3 years	i) Minimum 500 to 1000 employees	10	The man power count shall be ascertained from the “No. of Members” column in the EPF Challan. The contractor shall submit EPF challans for the last 12 months starting from
		ii) Above 1000 up to 2000 employees	15	

		iii) Above 2000 employees	20	the previous month in which the tender is released.
5	Presentation on work execution methodologies	Work plan techniques-Wrds/ICU/OT	6	Video presentation related thype of chemical usages & infection control practices and implementation of BMW in the existing hospital
		Spill Management	2	Video on Large Spillage management practices in existing hospital video
			2	Implementation of Radioactive spillage management
		Modern Technology	6	Implementation of modern technologies in Sanitation Practices in corridor cleaning Dust control techniques on roads and pavement
		Worker Retention policy/Worker Motivation	4	Presentation on employee welfare schemes to be implemented in NIMS for retention of worker through incentives & Motivation classes/Monthly Training programmes to be conducted for up skill and soft skill of staff

DISCUSSION AND CONCLUSION:-

DISCUSSION:-

7. **The specific pleas put forth by both the learned senior designated counsel appearing on behalf of the petitioners in both the writ petitions i.e., W.P.Nos. 32249 and 32250 of 2025 are as under:**

i) The award of the work order vide Rc. No. Plng-1/55/2019/LC dated 16.10.2025 by Respondent No.1 in favour of Respondent No.2 is mala fide, arbitrary, and illegal.

ii) NIMS did not follow the guidelines issued by the Directorate of Medical Education (DME) or the Government of Telangana in conducting the tender process.

iii) NIMS failed to consider the representations submitted by the petitioner raising the specific grievance that the award of the work order in favour of Respondent No.2 was improper, arbitrary, and mala fide.

iv) Respondent No.2 was disqualified from participating in the tender process in view of the provisions contained in its Memorandum of Association.

v) The experience certificate furnished by Respondent No.2 is not an authentic document.

vi) Respondent No.2 is ineligible to participate in the tender process.

vii) The technical evaluation criteria, particularly with regard to the allocation of marks under Clause 9.3, was applied arbitrarily and without any prescribed guidelines, thereby favouring Respondent No.2.

viii) The tender process itself was conducted in a hasty manner with *mala fide* intent and with the objective of favouring Respondent No.2.

ix) The evaluation criteria lacked proper objectivity and transparency, and the tender conditions were framed without any guiding principles or established norms.

Based on the aforesaid submissions, the learned senior designated counsel appearing on behalf of the petitioners in both the Writ Petitions i.e., W.P.Nos.32249 and 32250 of 2025 contended that the petitioners in both the writ petitions are entitled for the relief as prayed for by the petitioners in both the writ petitions.

8. The learned Senior Designated Counsel appearing on behalf of the 2nd Respondent in W.P. Nos. 32249 and 32250 of 2025 mainly puts forth the following submissions:

a) The 2nd Respondent is a company engaged in property management services, including manpower supply, housekeeping, sanitation, patient-care support services, and maintenance of commercial and institutional establishments. Pursuant to separate tenders issued by the 1st Respondent on 18.07.2025 for Area-I and Area-II, the bids were evaluated under the Quality and Cost Based Selection (QCBS) method. Following a pre-bid meeting held on 28.07.2025 and the issuance of a Corrigendum dated 14.08.2025, the Tender Evaluation Committee conducted the evaluation process, in which the 2nd Respondent emerged as the successful bidder for both areas.

b) Consequent upon its selection, the 1st Respondent issued Work Orders dated 16.10.2025 in favour of the 2nd Respondent. The 2nd Respondent furnished a Performance Bank Guarantee of ₹2.50 crores on 17.10.2025 and thereafter entered into a Manpower Supply Agreement dated 21.10.2025 with the 1st Respondent, thereby formalising the contractual relationship between the parties.

c) The petitioners instituted the present writ petitions only on 24.10.2025, after completion of the tender process and execution of the Agreement. Since the petitioners challenged only the Work Orders dated 16.10.2025 and did not seek any relief against the subsequently executed Agreement dated 21.10.2025, the challenge had become infructuous since vested contractual rights had already been crystallised in favour of the 2nd Respondent.

d) In support of the above contention, reliance was placed on Frontline Business Solutions Pvt. Ltd. v. Lalit Narayan Mithila University & Ors., CWJC No.14030 of 2025 (Patna High Court), wherein it was held that judicial review in tender matters is primarily preventive and not curative and that courts should ordinarily refrain from interfering with concluded contracts, as such interference would unsettle vested rights and adversely affect public interest and that Clauses 2.4 and 2.5 of the Agreement established that the contract had become concluded and enforceable between the parties.

e) Refuting the petitioners' contention regarding ineligibility, the 2nd Respondent submitted that patient-care support services were well within the scope of its Memorandum of Association, which expressly authorised property management, housekeeping, janitorial services, manpower supply, and other incidental activities. Patient-care services were either directly covered by the manpower supply clause or were ancillary and incidental to the principal objects of the company.

f) The reliance placed by the petitioners on Dr. A. Lakshmanaswami Mudaliar v. Life Insurance Corporation of India, (1963) 33 Comp Cas 420, was distinguished on the ground that the activities undertaken by the 2nd Respondent were not ultra vires its Memorandum of Association. Reliance was instead placed on Gajadhar Prasad Choudhary v. State of Bihar, 1983 SCC OnLine Pat 219, wherein it was held that acts reasonably incidental or ancillary to the main objects of a company are legally permissible.

g) With regard to eligibility criteria, the 2nd Respondent had furnished an Experience Certificate dated 31.07.2025 issued by the RMO/Civil Surgeon, Osmania General Hospital. Further, under Clause 7.3 of the agreement, the RMO and Civil Surgeon were authorised supervisory officials competent to certify the services rendered.

h) The 2nd Respondent had fully satisfied the experience requirements prescribed in the tender. It had rendered patient-care, housekeeping, sanitation, and incidental services at Osmania General Hospital, which had a sanctioned bed strength of 1,168 beds and a reckonable bed strength of 1,752 beds. The Experience Certificate reflected deployment of 788 personnel, thereby satisfying the requirement of deployment of not less than 500 manpower personnel. Reliance was also placed on G.O.Ms.

No.31 dated 12.03.2022 and the Corrigendum dated 14.08.2025 to contend that all manpower deployed under the relevant service categories was liable to be considered.

i) The 2nd Respondent continued to provide services to Osmania General Hospital as on the last date of submission of bids and thereafter, thereby satisfying the requirement of continuous experience.

j) The 2nd Respondent possessed more than seven years' relevant experience, as evidenced by the work order dated 01.08.2017 issued by Sri City Pvt. Ltd., and was therefore rightly awarded the maximum marks under Clause 9.3.1 of the tender conditions.

k) Denying all allegations of mala fides, arbitrariness, and favouritism, the caveats filed by the 1st Respondent were precautionary and applied to all participating bidders. The petitioners' representation dated 28.07.2025 had been duly considered and resulted in the Corrigendum dated 14.08.2025, whereas the subsequent representation dated 06.10.2025 was submitted after completion of technical evaluation. The petitioners in W.P. Nos. 32249 and 32250 of 2025 had suppressed material facts relating to earlier litigation and had not approached the Court with clean hands.

Based on the aforesaid submissions, the learned Senior Designated Counsel appearing on behalf of the 2nd Respondent contends that W.P. Nos. 32249 and 32250 of 2025 are liable to be dismissed with exemplary costs.

9. The learned Advocate General appearing on behalf of the 1st Respondent in I.A. No.3 of 2025 in W.P. No. 32249 of 2025 mainly puts forth the following submissions:

a) The writ petition is not maintainable either on facts or in law. The petitioner has suppressed material facts and has approached this Hon'ble Court with unclean hands. Whenever tenders relating to sanitation, housekeeping, patient care, and incidental services were floated by NIMS, the petitioner repeatedly approached the High Court with litigation intending to stall the tender process and continue its existing arrangement by default.

b) The present writ petition is yet another attempt to obstruct a transparent tender process and amounts to an abuse of the process of Court. Therefore, the writ petition is liable to be dismissed with exemplary costs.

c) Tender Notification bearing Rc. No. Ping-1/55/2019/LC dated 18.07.2025 was issued through the Telangana Government e-Procurement Platform for outsourcing Patient Care Services, Housekeeping, Sanitation, and Incidental Works for the period 2025–2027.

d) A pre-bid meeting was conducted on 28.07.2025, in which bidders, including the petitioner, participated. During the meeting, PowerPoint presentations were made and the queries raised by the bidders were duly clarified.

e) Upon considering the representations and queries raised during the pre-bid stage, the 1st Respondent issued a Corrigendum dated 14.08.2025, clarifying and modifying certain clauses wherever necessary. The corrigendum was uploaded on the e-Procurement Portal and made available to all prospective bidders.

f) The tender submission period was subsequently extended up to 01.09.2025 to facilitate wider participation and provide sufficient opportunity to prospective bidders.

g) The technical and financial bids were opened on 04.09.2025 through the e-Procurement Portal. The entire process was conducted electronically, ensuring transparency and eliminating manual intervention.

h) The petitioner participated in the tender process and deposited an Earnest Money Deposit (EMD) of Rs. 25,00,000/- for Area No. 2 in accordance with the tender conditions.

i) After the bids were opened, the petitioner submitted a representation dated 06.10.2025 seeking alteration of the technical evaluation criteria prescribed under Clause 9.3. Such requests were impermissible after the closure of the tender process and, therefore, could not be entertained.

j) The tender conditions cannot be modified after the submission of bids to suit the convenience of a particular bidder, as such modifications would violate the principles of fairness, equality, and transparency enshrined under Article 14 of the Constitution of India.

k) The technical evaluation was conducted under the Quality-cum-Cost Based Selection (QCBS) methodology strictly in accordance with the tender conditions and the Corrigendum.

l) The Evaluation Committee, comprising senior officers and experts, assessed all bids under Clause 9.3 of the tender document, and the results were uploaded on the e-Procurement Portal.

m) Upon completion of the technical and financial evaluation, Respondent No. 2, M/s. Quality Property Management Services Pvt. Ltd., emerged as the H1 bidder and was awarded the work order vide Rc. No. Ping-1/55/2019/LC dated 16.10.2025.

n) The allegation that Respondent No. 2 lacked the requisite eligibility is specifically denied. The eligibility conditions under Clauses 3.1.2 and 4.1.3 required experience in executing Patient Care Services, Housekeeping, Sanitation, and Incidental Works in a Government Super Specialty Hospital having at least 500 beds, with deployment of not less than 500 personnel during the preceding three years.

o) Respondent No. 2 fulfilled all eligibility requirements based on its work at Osmania General Hospital. Relevant experience certificates and agreements were submitted and duly verified during the evaluation process. OGH had a sanctioned bed strength exceeding 1,100 beds and a

reckonable bed strength of 1,752 beds. Based on the applicable norms, Respondent No. 2 had deployed more than 563 personnel, thereby satisfying the minimum requirement of deploying 500 personnel.

p) The allegation that the Memorandum of Association of Respondent No. 2 did not permit the provision of hospital support services is denied. The objects clause specifically authorizes the company to undertake manpower supply, housekeeping, sanitation, patient care, and facility management services.

q) Respondent No. 2 possesses substantial experience gained from various institutions, including Osmania General Hospital, Christian Medical College, Sri Ramachandra Hospital, Gleneagles Hospitals, and other reputed establishments.

r) With regard to the allocation of technical marks, the criteria prescribed under Clause 9.3 were uniformly applied to all bidders. Experience, turnover, bed strength, and employee strength were independently evaluated in accordance with the QCBS methodology. The technical criteria and weightage were adopted from the Kayakalp – National Guidelines for Clean Hospitals, 2015, issued by the Ministry of Health and Family

Welfare, with suitable modifications to meet the institutional requirements of the 1st Respondent. The petitioner has no vested right or legitimate expectation to be awarded the contract merely because it had participated in previous tenders or rendered services in the past. **Having participated in the tender process with full knowledge of the terms and conditions and having undergone the evaluation process, the petitioner is estopped from challenging the same after having been unsuccessful. No mala fides, arbitrariness, favouritism, or procedural irregularity has been established by the petitioner. Therefore, no interference under Article 226 of the Constitution of India is warranted.**

Based on the above submissions, the learned Advocate General appearing on behalf of the 1st Respondent had prayed for vacating the interim order dated 25.10.2025 passed in W.P.No.32249 of 2025 and for dismissal of the writ petition with exemplary costs.

CONCLUSION:-

10. A bare perusal of the detailed counter-affidavit filed on behalf of Respondent No.1, i.e., NIMS, in W.P. No. 32249 of 2025, indicates that it comprehensively answers

the specific pleas put-forth by the petitioners in both W.P. Nos. 32249 and 32250 of 2025.

11. A bare perusal of the averments made at Paragraph No. 6 of the counter-affidavit filed on behalf of Respondent No.1 in W.P. No. 32249 of 2025 clearly indicates that the allegation that the award of the work order dated 16.10.2025 in favour of Respondent No.2 was mala fide, arbitrary, and illegal is incorrect.

12. The averments made at Paragraph Nos. 13 and 14 of the counter-affidavit filed on behalf of Respondent No.1 in W.P. No. 32249 of 2025 clearly indicate that the allegations levelled against NIMS, that it had failed to follow the guidelines of the Directorate of Medical Education and the Government of Telangana pertaining to tender and further the various representations submitted by the petitioner had not been considered by NIMS, are factually incorrect.

13. The averments made at Paragraph Nos. 15 to 17 of the counter-affidavit filed on behalf of Respondent No.1 in W.P. No. 32249 of 2025 clearly indicate that the plea of the petitioner there under that the Memorandum of Association of Respondent

No.2 disqualified Respondent No.2 from participating in the tender process, and that the experience certificate furnished by Respondent No.2 from Osmania General Hospital, Hyderabad, was not duly certified, is wholly misconceived. The allegation that Respondent No.2 did not satisfy the eligibility criteria is also incorrect, since Respondent No.2 fulfilled all the eligibility conditions by possessing experience at Osmania General Hospital. Based on the applicable norms, Respondent No.2 had deployed more than 563 personnel ((333 Sanitation) + (228 Patient Care and Security Staff)), thereby satisfying the minimum requirement of deploying 500 personnel. Respondent No.2 also satisfied the technical evaluation criteria, as explained at Paragraph Nos. 18 and 19 of the counter-affidavit filed by NIMS.

14. A bare perusal of the counter-affidavit filed on behalf of Respondent No.2 in both W.P. Nos. 32249 and 32250 of 2025 clearly indicates that the specific allegations levelled against Respondent No.2, that Respondent No.2 did not meet the conditions of the tender notice dated *18.07.2025*, and that Respondent No.2 had failed to fulfil the prescribed technical and financial criteria, and had emerged as the H1 bidder without qualification, and also that Respondent No.2 was ineligible to

participate in the tender dated 18.07.2025 floated by the Respondent No.1 in view of Memorandum of Association of Respondent No.2, are wholly unfounded and hence, this Court opines that the said pleas have been put forth by the petitioners with a *mala fide* intention of challenging the contract awarded in favour of Respondent No.2 herein.

15. A bare perusal of the record indicates that the petitioners in both writ petitions are engaged in the business of providing property management and manpower services, including maintenance of domestic and commercial spaces. Respondent No.1 had floated a tender dated 18.07.2025 for sanitation, housekeeping, sweeping, cleaning, and other incidental services for Area-I and Area-II for the period 2025–2027. The tender stipulated that evaluation would be conducted on the basis of the Quality and Cost Based Selection (QCBS) method, under which only those bidders who secured the minimum qualifying technical score would be eligible for consideration of their financial bids. The final award was to be made on the basis of the highest awarded bid score i.e., combined technical and financial score.

16. The Paragraph No.11 of the Counter Affidavit filed on behalf of Respondent No.2 in both W.P. Nos. 32249 and

32250 of 2025 clearly indicates that eleven (11) bidders had participated in the pre-bid meeting conducted on 28.07.2025, during which various clarifications were sought for by all the bidders and the same were duly addressed. Thereafter, a corrigendum to the tender dated 18.07.2025 had been issued by Respondent No.1 on 14.08.2025 duly taking into consideration the grievances, representations, and suggestions submitted by all the prospective bidders. Subsequently, Respondent No.2 had been declared the successful bidder for both Area-I and Area-II. Accordingly, work orders dated 16.10.2025 were issued in favour of Respondent No.2, as evidenced at Page No. 171 of the material papers filed in W.P. No. 32249 of 2025 and Page No. 175 of the material papers filed in W.P. No. 32250 of 2025. (Doubt) Pursuant thereto, Respondent No.2 had paid the requisite charges to Respondent No.1 and a manpower supply agreement dated 21.10.2025 was executed between the Respondent No.1 and Respondent No.2 in respect of Area-I and Area-II.

17. A bare perusal of the prayers in both W.P. Nos. 32249 and 32250 of 2025 clearly indicates that the grievance of the

petitioners pertains to the award of the work orders dated 16.10.2025 in favour of Respondent No.2 herein.

18. This Court also takes note of the fact as borne on record that though the petitioners challenged the work orders dated 16.10.2025 issued in favour of Respondent No.2, they had failed to challenge the manpower supply agreement dated 21.10.2025 executed between Respondent Nos.1 and 2. In view of the said agreement, vested contractual rights accrued in favour of Respondent No.2 and the tender process admittedly culminated in a concluded contract.

19. This Court opines that any interference at this stage would eventually annul a concluded contract and unsettle vested contractual rights, which is impermissible in law.

20. <u>In the Division Bench judgment of the Patna High Court in Civil Writ Jurisdiction Case No. 14030 of 2025 dated 24.09.2025, an identical issue was considered and answered as follows:</u>

Issue 1: Whether the writ can be entertained, particularly when it has been instituted after the declaration of the result of the financial bid and answered the said issue as under:-

The law is well settled that writ jurisdiction under Article 226 is primarily preventive and not curative in matters relating to tenders. Where the tender process has already reached its logical conclusion and contractual rights have crystallized, Courts have consistently exercised restraint in entertaining belated challenged. It is by now trite law that once the tender process has culminated into a concluded contract, ordinarily no writ would lie to annul the same, except in cases where the action of the State or its instrumentalities is shown to be vitiated by mala fdies, arbitrariness, or violation of statutory/constitutional provisions.

21. Taking into Consideration the observations made by the Division Bench judgment of the Patna High Court in Civil Writ Jurisdiction Case No. 14030 of 2025 dated 24.09.2025, (referred to and extracted above) under identical circumstances and applying the principle laid down in the said judgment to the facts of the present case, this Court opines that the petitioners had approached this Court only after issuance of the work orders dated 16.10.2025 and execution of the agreement dated 21.10.2025 in favour of Respondent No.2 by the Respondent No.1 and by that stage itself, vested rights had already accrued in favour of Respondent No.2 and corresponding obligations had arisen on the part of Respondent No.1. Hence, this Court is of the opinion that the interference at this juncture would not only unsettle a

concluded contract but also cause administrative chaos and financial loss for the public exchequer.

22. In view of the above discussions, this Court is of the opinion that the writ petitions, having been filed after the declaration of the financial bid, issuance of the work orders, and execution of the agreement, cannot be entertained at this belated stage since the challenge seeks to unsettle a concluded contract and therefore warrants no interference by this Court.

23. Insofar as the pleas of the petitioners that the agreement dated 21.10.2025 contemplated commencement of services only from 01.11.2025 and, therefore, the contract had not attained finality is concerned, this Court finds no merit in the said submission. A bare perusal of Clause 2.4 of the man power supply agreement dated 21.10.2025 indicates that the contract period is for a term of two years commencing from the date of commencement of services or such other date as stipulated therein. Further, Clause 2.5 of the man power supply agreement specifically provides that the agreement shall come into force with effect from 26.10.2025. **Therefore, it is evident that the agreement executed between Respondent No.1 and**

Respondent No.2 had already come into operation with effect from 26.10.2025 and had attained finality.

24. In so far as the plea of the petitioners that the Memorandum of Association of Respondent No.2 does not authorize it to undertake patient care and sanitation services and, therefore, Respondent No.2 was ineligible to participate in the tender dated 18.07.2025, this court opines that the said contention is liable to be rejected, since a bare perusal of the Memorandum of Association of Respondent No.2 clearly indicates that its objects include provision of manpower services, including security services, housekeeping services, sanitation services, and other allied activities. Since Respondent No.2 is engaged in providing manpower-related services for institutions, buildings, and establishments, this Court opines that it cannot be said that patient care services fall outside the scope of its authorized activities.

25. This Court opines that any activity which is incidental or ancillary to the principal objects of a company is permissible and cannot be regarded as *ultra vires* its Memorandum of Association. Patient care services, being incidental to manpower

and support services, squarely fall within the permissible ambit of the objects of Respondent No.2.

26. In Gajadhar Prasad Choudhary v. State of Bihar, reported in 1983 SCC OnLine Pat 219, it was held that any act which is reasonably incidental, ancillary, or conducive to the attainment of the principal objects of a company can validly be undertaken by such company.

27. Insofar as the plea of the petitioners that the experience certificate submitted by Respondent No.2 was not issued by the competent authority is concerned, the same is devoid of merit.

28. This Court further opines that as per the tender notification dated 18.07.2025, a bidder was required to possess experience in a Super Specialty Hospital having a minimum bed strength of 500 beds and deployment of not less than 500 personnel. The bidder was also required to furnish an experience certificate and/or agreement evidencing such experience.

29. In compliance with the aforesaid conditions, Respondent No.2 submitted an experience certificate dated 31.07.2025 issued by the Civil Surgeon and signed by the Resident Medical Officer (RMO) of Osmania General Hospital, Hyderabad.

30. This Court opines that the plea of the petitioners that the experience certificate ought to have been signed exclusively by the Superintendent of Osmania General Hospital and not by the RMO is untenable for two reasons. Firstly, the tender conditions do not prescribe any specific authority who alone is competent to issue such experience certificate. Secondly, Clause 7.3.4 of the e-Tender Document dated 25.04.2022, provides that the quality of sanitation in all the areas and facilities shall be inspected by the Supervisory Staff of the Hospital nominated by the Superintendent of the Hospital, consisting of RMO's, HoD's, Civil Surgeons, and Asst. Surgeons. Therefore, the RMO is a competent functionary associated with the supervision of the contract and is duly authorized to certify the relevant particulars.

31. Furthermore, the experience certificate dated 31.07.2025 contains all material particulars including the period of contract, number of personnel deployed, years of experience, and performance of the bidder. The said particulars fully satisfy the requirements stipulated under Clause 8.1 (i) of the tender notification.

32. Consequently, the plea of the petitioners that the experience certificate is defective or not in the prescribed format is rejected.

33. **The plea of the petitioners that Respondent No.2 had failed to satisfy the technical criteria prescribed under the tender notification dated 18.07.2025 is also liable to be rejected for the following reasons:-**

a) A bare perusal of Clause 3.1.2 and Clause 9.3.1 of the tender notification makes it clear that a bidder was required to have experience in providing patient care services, housekeeping services, sanitation services, and other incidental services in a Government Super Specialty Hospital, with deployment of not less than 500 personnel.

b) The experience certificate dated 31.07.2025 issued by Osmania General Hospital clearly indicates that the hospital possesses a bed strength far in excess of the prescribed minimum of 500 beds and that Respondent No.2 had deployed personnel well beyond the prescribed threshold.

c) In so far as the contention that only sanctioned bed strength and not reckonable bed strength should be considered is concerned, the same is untenable. A perusal of G.O.Ms. No.31 dated 12.03.2022 indicates that reckonable bed strength is the relevant criterion for such purposes.

d) The plea of the petitioners that Respondent No.2 had deployed less than 500 personnel is contrary to the material on record. The experience certificate dated 31.07.2025 clearly indicates deployment of approximately 788 personnel, including sanitation and housekeeping staff, patient care staff, and security personnel. Therefore, Respondent No.2 fully satisfied the requirement relating to deployment of manpower under the tender conditions.

e) This Court further opines that even if security personnel are excluded from consideration, the manpower deployed by Respondent No.2 would still exceed the minimum requirement of 500 personnel and, therefore, this Court opines that the technical eligibility criteria stood fully satisfied.

34. The plea of the petitioners that the contract awarded by Osmania General Hospital had already expired and, therefore, the experience certificate dated 31.07.2025 could not have been considered is equally devoid of merit

and is accordingly rejected, in view of the fact as borne on record that as on the date of submission of the tender, Respondent No.2 continued to render services at Osmania General Hospital. Therefore, the experience certificate validly established compliance with Clause 9.3.1 of the tender conditions. <u>Accordingly, the experience of Respondent No.2 exceeded seven years and, therefore, it was rightly awarded the marks prescribed under the technical evaluation criteria pertaining to experience</u>.

35. Insofar as the grievance of the petitioners that their representations were not considered is concerned, the counter-affidavit filed by Respondent No.1 clearly indicates that the representation dated 28.07.2025 submitted by the petitioner in W.P.No.32249 of 2025 was duly considered during the pre-bid meeting held on the same day. Thereafter, a corrigendum was issued after considering the grievances and suggestions submitted by prospective bidders. The subsequent representation dated 06.10.2025 submitted by the petitioner in W.P.No.32249 of 2025had also been taken into account during the evaluation process.

36. In view of the detailed averments made in the counter-affidavits filed by Respondent No.1, this Court opines that all the allegations levelled by the petitioners had been duly answered.

37. This Court is of the firm opinion that the petitioners have failed to establish any illegality, arbitrariness, mala fides, or procedural impropriety in the tender evaluation process. The pleas put forth by the petitioners are unsupported by cogent evidence and are liable to be rejected.

38. <u>The Apex Court in its judgment, dated 14.12.2017 reported in (2017) 2 SCC 176 in Sam Built Well Private Limited Vs. Deepak Builders and Others and in particular at para Nos.10 to 12 observed as under:-</u>

> 10. Having heard learned counsel for both parties, it is important to set out the parameters for judicial review in cases like the present one. In a similar case, namely, Afcons Infrastructure Ltd. v. Nagpur Metro Rail Corpn. Ltd., (2016) 16 SCC 818 at 825-26, paragraph 4.2(a) of Section III of the tender conditions in that case again spoke of a certain minimum number of "similar contracts" as previous work experience.
> The question before this Court was whether an inter-state high speed railway project could be similar to metro civil construction work. After laying down the parameters of judicial review and referring to various judgments for the same, this Court held:
>
> **"15. We may add that the owner or the employer of a project, having authored the tender documents, is the best person to understand and appreciate its requirements and interpret its documents. The constitutional courts must defer to this understanding**

and appreciation of the tender documents, unless there is mala fide or perversity in the understanding or appreciation or in the application of the terms of the tender conditions. It is possible that the owner or employer of a project may give an interpretation to the tender documents that is not acceptable to the constitutional courts but that by itself is not a reason for interfering with the interpretation given.

16. In the present appeals, although there does not appear to be any ambiguity or doubt about the interpretation given by NMRCL to the tender conditions, we are of the view that even if there was such an ambiguity or doubt, the High Court ought to have refrained from giving its own interpretation unless it had come to a clear conclusion that the interpretation given by NMRCL was perverse or mala fide or intended to favour one of the bidders.
This was certainly not the case either before the High Court or before this Court."

11. In Montecarlo Ltd. v. NTPC Ltd., (2016) 15 SCC 272 at 288, this Court referred to various judgments, including the judgment in Afcons Infrastructure Ltd. (supra), and concluded as follows:

"26. We respectfully concur with the aforesaid statement of law. We have reasons to do so. In the present scenario, tenders are floated and offers are invited for highly complex technical subjects. It requires understanding and appreciation of the nature of work and the purpose it is going to serve. It is common knowledge in the competitive commercial field that technical bids pursuant to the notice inviting tenders are scrutinised by the technical experts and sometimes third-party assistance from those unconnected with the owner's organisation is taken. This ensures objectivity. Bidder's expertise and technical capability and capacity must be assessed by the experts. In the matters of financial assessment, consultants are appointed. It is because to check and ascertain that technical ability and the financial feasibility have sanguinity and are workable and realistic. There is a multi-prong complex approach; highly technical in nature. The tenders where public largesse is put to auction stand on a different compartment. Tender with which we are concerned, is not comparable to any scheme for allotment. This arena which we have referred requires technical expertise. Parameters applied are different. Its aim is to achieve high degree of perfection in execution and adherence to the time schedule. But, that does not mean, these tenders will escape scrutiny of judicial review. **Exercise of**

power of judicial review would be called for if the approach is arbitrary or mala fide or procedure adopted is meant to favour one. The decision-making process should clearly show that the said maladies are kept at bay. But where a decision is taken that is manifestly in consonance with the language of the tender document or subserves the purpose for which the tender is floated, the court should follow the principle of restraint. Technical evaluation or comparison by the court would be impermissible. The principle that is applied to scan and understand an ordinary instrument relatable to contract in other spheres has to be treated differently than interpreting and appreciating tender documents relating to technical works and projects requiring special skills. The owner should be allowed to carry out the purpose and there has to be allowance of free play in the joints."

12. We have already noticed that three expert committees have scrutinized Respondent No.1's tender and found Respondent No.1 to be ineligible. The impugned judgment of the Division Bench of the High Court expressly states that no malafides are involved in the present case. Equally, while setting aside the judgment of the learned Single Judge, the Division Bench does not state that the three expert committees have arrived at a perverse conclusion. To merely set aside the judgment of the learned Single Judge and then jump to the conclusion that Respondent No.1's tender was clearly eligible, would be directly contrary to the judgments aforestated. **Not having found malafides or perversity in the technical expert reports, the principle of judicial restraint kicks in, and any appreciation by the Court itself of technical evaluation, best left to technical experts, would be outside its ken.** As a result, we find that the learned Single Judge was correct in his reliance on the three expert committee reports. **The Division Bench, in setting aside the aforesaid judgment, has clearly gone outside the bounds of judicial review. We, therefore, set aside the judgment of the Division Bench and restore that of the learned Single Judge.**

39. The Apex Court in its judgment, dated 21.03.2022 reported in (2022) 6 SCC 127 in N.G.Projects Limited Vs.Vinod Kumar Jain and Others and in particular at para Nos.22 & 23 observed as under:-

> 22. The satisfaction whether a bidder satisfies the tender condition is primarily upon the authority inviting the bids. Such authority is aware of expectations from the tenderers while evaluating the consequences of non-performance. In the tender in question, there were 15 bidders. Bids of 13 tenderers were found to be unresponsive i.e., not satisfying the tender conditions. The writ petitioner was one of them. It is not the case of the writ petitioner that action of the Technical Evaluation Committee was actuated by extraneous considerations or was malafide. Therefore, on the same set of facts, different conclusions can be arrived at in a bona-fide manner by the Technical Evaluation Committee. Since the view of the Technical Evaluation Committee was not to the liking of the writ petitioner, such decision does not warrant for interference in a grant of contract to a successful bidder.
>
> 23. In view of the above judgments of this Court, the Writ Court should re-frain 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 ex- pertise 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 com- plying with the procedure contemplated by the tender conditions. **<u>If the Court finds that there is total arbitrariness or that the tender has been granted in a malafide 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 addi- tional costs on the State and is also against public 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.</u>**

40. In the aforesaid judgment, the Apex Court held that even where allegations of *mala fides* are made, the Court should be even more reluctant in interfering with

contracts involving technical issues so as to safeguard public finances and protect the interests of the employer. In the aforesaid judgment, in particular at Paragraph No. 23, it was clearly observed that even where the Court finds that the tender process was arbitrary or that the tender was awarded in a *mala fide* manner, the Court should ordinarily refrain from interfering with the award of the tender. Instead, the aggrieved party should be relegated to seek damages for wrongful exclusion rather than seek an injunction against the execution of the contract. The Court further observed that interference with the execution of a contract at such a stage would lead to additional costs to the State and would be against the public interest.

41. In the judgment of the Apex Court reported in (2016) 16 SCC 818 in Afcons Infrastructure Limited Vs. Nagpur Metro Rail Corporation Limited and Another, dated 15.09.2016 and in particular at para No.15, it is observed as under:-

15. We may add that the owner or the employer of a project, having authored the tender documents, is the best person to understand and appreciate its requirements and interpret its documents. The constitutional Courts must defer to this understanding and appreciation of the tender documents,

unless there is mala fide or perversity in the understanding or appreciation or in the application of the terms of the tender conditions. It is possible that the owner or employer of a project may give an interpretation to the tender documents that is not acceptable to the constitutional Courts but that by itself is not a reason for interfering with the interpretation given.

42. In the judgment of the Apex Court reported in (2000) 2 SCC 617, Air India Ltd. v. Cochin International Airport Ltd., it was held that even if some defect is found in the decision-making process, the Court ought to exercise its discretionary powers under Article 226 of the Constitution of India with great caution and only in furtherance of public interest, and not merely because a legal point had been made out. The Court emphasized that the larger public interest must be kept in view while deciding whether judicial intervention is warranted. In Paragraph No. 7, it was observed as follows:

7. 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 of 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 amendable to judicial review, the Court can examine the

decision making process and interfere if it is found vitiated by mala fides, unreasonableness and arbitrariness. The State, its corporations, instrumentalities and agencies have the public duty to be fair to all concerned. **Even when some defect is found in the decision making process the Court must exercise its discretionary power under Article 226 with great caution and should exercise it only in furtherance of public interest and not merely on the making out of a legal point. The Court should always keep the larger public interest in mind in order to decide whether its intervention is called for or not. Only when it comes to a conclusion that overwhelming public interest requires interference, the Court should intervene.**

43. In the judgment of the Apex Court reported in (2007) 14 SCC 517 in Jagdish Mandal Vs. State of Orissa and Others, dated 11.12.2006, and in particular para No.22, it is observed as under:-

19. Judicial review of administrative action is intended to prevent arbitrariness, irrationality, unreasonableness, bias and malafides. Its purpose is to check whether choice or decision is made 'lawfully' and not to check whether choice or decision is 'sound'. When the power of judicial review is invoked in matters relating to tenders or award of contracts, certain special features should be borne in mind. A contract is a commercial transaction. Evaluating tenders and awarding contracts are essentially commercial functions. Principles of equity and natural justice stay at a distance. If the decision relating to award of contract is bona fide and is in public interest, courts will not, in exercise of power of judicial review, interfere even if a procedural aberration or error in assessment or prejudice to a tenderer, is made out. **The power of judicial review will not be permitted to be invoked to protect private interest at the cost of public interest, or to decide contractual disputes. The tenderer or contractor with a grievance can always seek damages in a civil court. Attempts by unsuccessful tenderers with imaginary grievances, wounded pride and business rivalry, to make mountains out of molehills of some technical/procedural violation or some prejudice to self, and persuade courts to interfere by exercising power of judicial review, should be resisted. Such interferences, either interim or final, may hold up public works for years, or delay relief and succour to thousands and millions and may increase the project cost manifold. Therefore, a court before interfering**

in tender or contractual matters in exercise of power of judicial review, should pose to itself the following questions :

i) Whether the process adopted or decision made by the authority is mala fide or intended to favour someone.

OR Whether the process adopted or decision made is so arbitrary and irrational that the court can say : 'the decision is such that no responsible authority acting reasonably and in accordance with relevant law could have reached.'

ii) Whether public interest is affected.

If the answers are in the negative, there should be no interference under Article 226. Cases involving black-listing or imposition of penal consequences on a tenderer/contractor or distribution of state largesse (allotment of sites/shops, grant of licences, dealerships and franchises) stand on a different footing as they may require a higher degree of fairness in action.

44. In the judgment of the Apex Court reported in (2016) 15 SCC 272 in Montecarlo Limited Vs. National Thermal Power Corporation Limited, dated 18.10.2016 and in particular para No.26, it is observed as under:-

26. We respectfully concur with the aforesaid statement of law. We have reasons to do so. In the present scenario, tenders are floated and offers are invited for highly complex technical subjects. It requires understanding and appreciation of the nature of work and the purpose it is going to serve. It is common knowledge in the competitive commercial field that technical bids pursuant to the notice inviting tenders are scrutinized by the technical experts and sometimes third party assistance from those unconnected with the owner's organization is taken. This ensures objectivity. Bidder's expertise and technical capability and capacity must be assessed by the experts. In the matters of financial assessment, consultants are appointed. It is because to check and ascertain that technical ability and the financial feasibility have sanguinity and are workable and realistic. There is a multi-prong complex approach; highly technical in nature. The tenders where public largesse is put to auction stand on a different

compartment. Tender with which we are concerned, is not comparable to any scheme for allotment. This arena which we have referred requires technical expertise. Parameters applied are different. Its aim is to achieve high degree of perfection in execution and adherence to the time schedule. But, that does not mean, these tenders will escape scrutiny of judicial review. **Exercise of power of judicial review would be called for if the approach is arbitrary or malafide or procedure adopted is meant to favour one. The decision making process should clearly show that the said maladies are kept at bay. But where a decision is taken that is manifestly in consonance with the language of the tender document or subserves the purpose for which the tender is floated, the court should follow the principle of restraint.** Technical evaluation or comparison by the court would be impermissible. The principle that is applied to scan and understand an ordinary instrument relatable to contract in other spheres has to be treated differently than interpreting and appreciating tender documents relating to technical works and projects requiring special skills. The owner should be allowed to carry out the purpose and there has to be allowance of free play in the joints.

45. In the judgment of the Apex Court reported in 2020 SCC Online SC 1035 in M/s. Galaxy Transport Agencies, Contractors, Traders, Transports and Suppliers, dated 18.12.2020 and in particular para No.14, it is observed as under:-

14. In a series of judgments, this Court has held that the authority that authors the tender document is the best person to understand and appreciate its requirements, and thus, its interpretation should not be second-guessed by a court in judicial review proceedings.

46. In the judgment of the Apex Court reported in (1994) 6 SCC 651 in Tata Cellular Vs. Union of India, dated 26.07.1994 and in particular para No.94, it is observed as under:-

94. The principles deducible from the above are :

(1) The modem trend points to judicial restraint in administrative action.

(2) The court does not sit as a court of appeal but merely reviews the manner in which the decision was made. (3) The court does not have the expertise to correct the administrative decision. If a review of the administrative decision is permitted it will be substituting its own decision, without the necessary expertise which itself may be fallible.

(4) The terms of the invitation to tender cannot be open to judicial scrutiny because the invitation to tender is in the realm of contract.

Normally speaking, the decision to accept the tender or award the contract is reached by process of negotiations through several tiers. More often than not, such decisions are made qualitatively by experts.

(5) The Government must have freedom of contract. In other words, a fair play in the joints is a necessary concomitant for an administrative body functioning in an administrative sphere or quasi-administrative sphere. However, the decision must not only be tested by the application of Wednesbury principle of reasonableness (including its other facts pointed out above) but must be free from arbitrariness not affected by bias or actuated by mala fides.

(6) Quashing decisions may impose heavy administrative burden on the administration and lead to increased and unbudgeted expenditure.

47. <u>The recent judgment of the Full Bench of the Apex Court, dated 19.05.2023 in Civil Appeal No.3897 of 2023 in Tata motors Limited Vs. The Brihan Mumbai Electric Supply & Transport Undertaking (BEST0 and Others and in particular paragraph Nos.48 and 52, reads as under:-</u>

48. This Court being the guardian of fundamental rights is duty-bound to interfere when there is arbitrariness, irrationality,

mala fides and bias. However, this Court has cautioned time and again that courts should exercise a lot of restraint while exercising their powers of judicial review in contractual or commercial matters. This Court is normally loathe to interfere in contractual matters unless a clear-cut case of arbitrariness or mala fides or bias or irrationality is made out. One must remember that today many public sector undertakings compete with the private industry. The contracts entered into between private parties are not subject to scrutiny under writ jurisdiction. No doubt, the bodies which are State within the meaning of Article 12 of the Constitution are bound to act fairly and are amenable to the writ jurisdiction of superior courts but this discretionary power must be exercised with a great deal of restraint and caution. The courts must realise their limitations and the havoc which needless interference in commercial matters can cause. In contracts involving technical issues the courts should be even more reluctant because most of us in Judges' robes do not have the necessary expertise to adjudicate upon technical issues beyond our domain. The courts should not use a magnifying glass while scanning the tenders and make every small mistake appear like a big blunder. In fact, the courts must give "fair play in the joints" to the government and public sector undertakings in matters of contract. Courts must also not interfere where such interference will cause unnecessary loss to the public exchequer.

52. Ordinarily, a 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 unless something very gross or palpable is pointed out. The court ordinarily should not interfere in matters relating to tender or contract. To set at naught the entire tender process at the stage when the contract is well underway, would not be in public interest. Initiating a fresh tender process at this stage may consume lot of time and also loss to the public exchequer to the tune of crores of rupees. The financial burden/implications on the public exchequer that the State may have to meet with if the Court directs issue of a fresh tender notice, should be one of the guiding factors that the Court should keep in mind. This is evident from a three-Judge Bench decision of this Court in Association of Registration Plates v. Union of India and Others, reported in (2005) 1 SCC 679.

48. The relevant portion of the judgment of the Apex Court, dated 19.11.2025 reported in 2025 SCC Online SC

2496 in Government of Tamil Nadu, Rep., by its Secretary, Transport Department and Others Vs. P.R.Jaganathan and Others, is extracted hereunder:-

"...The Power under Article 226 of the Constitution of India is both discretionary and extraordinary. Unless circumstances so warrant, there shall not be any interference in a concluded contract.

49. In the judgment of the Apex Court, dated 12.09.2025 reported in SCC Online SC 1959 in Prakash Ashphaltings and Toll Highways (idnia) Ltd. Vs. Mandeepa Enterprises & Others in Civil Appeal No.11418 of 2025 and in particular at para Nos.35 & 42, it is observed as under:-

35. *Afcons Infrastructure Limited* (supra) is a case where this Court reiterated the proposition that the words used in the tender documents cannot be ignored or treated as redundant or superfluous: they must be given the due meaning and their necessary significance. The owner or a employer of a project having authored the tender documents is the best person to understand and appreciate its requirements and interpret its documents. Constitutional courts must defer to this understanding and appreciation of the tender documents unless there is mala fides or perversity in the understanding or appreciation or in the application of the terms of the tender documents. It is possible that the view taken by the owner or the employer may not be acceptable to the constitutional courts but that by itself is not a reason for interfering with the interpretation given. This Court held as follows:

> **13. In other words, a mere disagreement with the decision-making process or the decision of the administrative authority is no reason for a constitutional court to interfere. The threshold of mala fides, intention to favour someone or arbitrariness, irrationality or perversity must be met before the constitutional court**

> interferes with the decision-making process or the decision.
>
> 42. While judicial review is not excluded to assail administrative decisions even in matters of tenders and contract, the long line of consistent judicial pronouncements tells us that the constitutional courts should exercise utmost restraint in interfering with a tender process unless the threshold of judicial review are met, as explained in *Jagdish Mandal* (supra) and in *Afcons Infrastructure Limited* (supra).

50. The Apex Court in its catena of decisions held that Courts must exercise judicial restraint in matters relating to tenders and contracts and should refrain from undertaking technical evaluation or comparative assessment of bids unless the decision-making process is shown to be arbitrary, *mala fide*, or contrary to law.

51. The Apex Court, in Tata Cellular v. Union of India, reported in (1994) 6 SCC 651(referred to and extracted above) went a step further and held that where a decision has been arrived at through a valid process, Constitutional Courts may interfere only if the decision is perverse. However, the Constitutional Courts are expected to exercise restraint while interfering with administrative decisions and ought not to substitute is own views for those of the administrative authority.

52. This Court opines that the judgments relied upon by the learned Senior Designated Counsel appearing on behalf of the petitioners do not apply to the facts of the present case.

53. In the light of the discussion and reasoning as arrived at para Nos.10 to 37 of the present judgment, this Court opines that all the allegations leveled by the petitioners in both the W.P.Nos.32249 & 32250 of 2025 are baseless and without any justification. The observations of the Apex Court in the various judgments referred to and extracted above, clearly indicates that until and unless, it is established beyond doubt that the action of the State or its instrumentalities is shown to be vitiated by mala fides, arbitrariness or violation of statutory, constitutional provisions, this Court under Article 226 of the Constitution of India cannot interfere with administrative decision and substitute its own views for those of the Administrative Authority. In the present cases, admittedly petitioners herein failed to substantiate their case against the NIMS.

54. <u>Taking into consideration:-</u>

(a) The aforesaid facts and circumstances of the case,

(b) The submissions made by all the learned counsel on record in both the writ petitions.

(c) The interim orders granted in favour of the petitioners, dated 25.10.2025 passed in I.A.No.1 of 2025 in both the writ petitions i.e., 32249 & 32250 of 2025 (referred to and extracted above)

(d) The averments made in the counter affidavit filed on behalf of the 1st respondent in both the writ petitions (referred to and extracted above)

(e) The averments made in the counter affidavit filed on behalf of the 2nd respondent in both the writ petitions (referred to and extracted above)

(f) The relevant tender conditions (referred to and extracted above) of the tender notification, dated 18.07.2025

(g) The observations of the various Courts in the judgments (referred to and extracted above) and again enlisted below:

i) (2007) 14 SCC 517

ii) (2016) 16 SCC 818

iii) (2016) 15 SCC 272

iv) 1994(6) SCC Page 651

v) 2020 SCC Online SC 1035

vi) (2000) 2 SCC 617

vii) (2025) SCC Online SC 1959

viii) Apex Court judgment, dated 19.05.2023 in Civil Appeal No.3897 of 2023

ix) 2025 SCC Online SC 2496

x) (2022) 6 SCC 127

xi) (2018) 2 SCC 176

xii) The Division Bench judgment of the High Court of Patna in Civil Writ Jurisdiction Case No.14030 of 2025, dated 24.09.2025

(h) G.O.Ms.No.31, dated 12.03.2022, relevant Clauses of the Tender document Clause 7.3.4, Clause 2.4 & 2.5 , Clause 3.1.2, Clause 8.1(i) and Clause 9.3.1 (referred to and extracted above)

(i) The discussion and conclusion as arrived at paragraph Nos. 7 to 53 of the present order.

This Court opines that there are no merits in both the writ petitions i.e., W.P.Nos.32449 & 32250 of 2025 filed by the petitioners. The interim orders granted in favour of the petitioners in both the writ petitions, dated 25.10.2025 stand vacated. Accordingly, both the writ petitions stand dismissed.

In view of the Interim orders of this Court, dated 25.10.2025 passed in the present writ petitions, which are in force as on date, this Court opines that the period of work of two (02) years as indicated in the work order, dated 16.10.2025 issued in favour of the 2nd respondent by NIMS Authority needs to be further extended for an equivalent period during which the interim orders of this Court, dated 25.10.2025 had been in operation and affected the execution of work by the 2nd respondent, duly considering the hardship meted out to the 2nd respondent herein. The 1st respondent is directed to consider the said aspect on humanitarian grounds and pass appropriate orders accordingly, in accordance to law, within a period of one (01) week from the date of receipt of copy of the order. However, there shall be no order as to costs.

Miscellaneous petitions, if any, pending in this Writ Petition, shall stand closed.

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MRS. JUSTICE SUREPALLI NANDA

Date:08.06.2026

Note: **L.R.Copy to be marked**
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