

**IN THE HIGH COURT OF JAMMU & KASHMIR AND LADAKH AT
SRINAGAR.**

WP (C) No. 2430/2026.

CM No. 6591/2026

M/S INCREDIBLE PLACEMENT SERVICES PVT. LTD

through its authorised Signatory

Sameer Ahmad Bhat (Authorised Signatory) aged 40-Years

S/o Ghulam Mohammad Bhat

R/o Dooru, Shabdan, Budgam, J&K.

..... Petitioner(s)

Through: -

Mr. Naveed Gul, Advocate.

V/s

1. *Union of India through the Secretary,
Ministry of Defense, New Delhi, 110011.*

2. *Station Organization Officer
Air Force Station Srinagar, PIN 190007.*

3. *Wing Commander, Station Organization Officer,
Air Force Station Srinagar J&K.*

..... Respondent(s)

Through:-

Mr. Faizan Ganai, CGSC.

CORAM:

HON'BLE MR. JUSTICE MOHD YOUSUF WANI, JUDGE

(ORDER)

26.09.2026.

(Oral)

1. Mr. Faizan Ganai, learned CGSC appears and waives notice in the matter for respondents.
2. Heard the learned counsel for the petitioner-firm in respect of the matter. Also heard the appearing counsel for the respondents in rebuttal.
3. The case of the petitioner-firm in nutshell is that it has been providing various services in the form of Cleaning, Sanitation and Disinfection Service-Outcome Based-Office/Commercial/Institutions/Residential; Vegetation Cutting; Outdoor & also provides security services and

man power to various organizations. That the respondent No. 3 issued tender in the month of January 2026, bearing *Bid No. GEM/2025/B/6978973 Dated: 08/01/2026* with respect to providing of services mentioned Supra to which it participated on GeM Portal/Online and fulfilled all the terms and conditions as required/envisaged in the tender notice. That despite being eligible bidder, was disqualified on the vague reason of non-submission of labour registration license/certificate for employment of 100 workers in a day which condition is against law and rules as laid down under Contract Labour Act 1970 and the rules framed thereunder. That with regard to the requirement of the aforesaid, certificate Labour Commissioner J&K vide circular No. LC/Enf/2020/1349-63 dated 20.11.2020, has already impressed upon all the executing agencies, strictly not to seek registration/license from the contractors. That the reason quoted by the respondents with regard to its disqualification is bad in law and therefore, deserves to be quashed/set aside with the direction to allow it to participate in the tender process.

4. Learned counsel for the petitioner-firm during the course of his arguments *inter-alia* submitted that the petitioner-firm is fully qualified as per the terms and conditions to participate in the tender process. That the firm at the time of submission of the technical bid submitted all the requisite documents as per the NIT. That the requirement of the Labour license was not at all a pre-requisite as per the terms and conditions of the NIT. That the said certificate, even if, required by the tendering authority could have been requisitioned from the petitioner-firm only after the allotment of the contract in its favour.

5. The learned counsel for the petitioner-firm in support of his contentions placed reliance on the *2003 Supreme (Ori) 894, titled as "M/S Trident Softech Pvt. Ltd v. State of Orissa and others"*. He contended that it has been authoritatively laid down in the judgment (supra) that the decision of the Technical Evaluation Committee, disqualifying the technical bid of the petitioner was not just or proper as there was no stipulation in the tender call notice to furnish Labour contract licence in respect of the previous works. Learned counsel submits that it has been also observed in the judgment (supra) that such a licence can only be obtained from the successful bidder after the entrustment of the work to him.
6. Learned counsel for the petitioner-firm also invited the attention of the Court towards the circular dated 20.11.2020, issued by the Government of Jammu and Kashmir-Office of the Labour Commissioner under No. LC/Enf/2020/1349-63, whereby it has been enjoined upon all the Principal Employers not to make a contract labour licence a pre-requisite document for participation in tendering process. It has been further stipulated in the said circular that however, Principal Employer shall seek the registration/licence from the contractor only after allotment of the work/contract and shall not release any payment in favour of the contractor in the absence of the contract labour licence
7. *Per-contra*, it was submitted by the learned CGSC , appearing for the respondents that the requirement of submission of the contract labour licence was a pre-requisite in terms of the terms and conditions of the NIT. The learned CGSC during the course of his submissions has invited the attention of the Court towards the

paragraph-9 of the NIT under Sub-head-Certificates, revealing that bidders Offer is liable to be rejected if they don't upload any of the certificates/documents sought in the bid document, ATC and Corrigendum if any. He further submitted that the document required from the seller made mention of experience criteria, bidder turnover certificate (requested in ATC).

8. In the facts and circumstances of the case, the Court is of the opinion that the matter can be disposed of even at this initial stage by passing of appropriate directions which are not likely to prejudice the interests of any of the parties and which otherwise are meant to be complied with by the respondents as being with legal justification.
9. The petitioner-firm appears to have been disqualified for non-submission of labour registration licence/certificate for employing 100 workers in a day. Such a stipulation as a pre-requisite does not appear to be specific either from the terms and conditions of the contract or from the tender documents. Such a requirement cannot be insisted upon as a pre-condition for submission of the bid document, such requirement can however, be insisted by the Principal Employer/executing agency after the allotment of the contract work and before any payment is released.
10. The facts of the case law relied upon by the learned counsel for the petitioner-firm squarely resemble with the facts of the instant case and, as such, this Court is in full agreement with the law laid-down in the said case. It is profitable to reproduce the paragraphs 12, 13 and 14 of the judgment (supra).

12. The only question which needs to be considered in the

present case is whether making such a stipulation in the Tender document was a pre-condition for adjudging the proven experience of a firm. It is found from the documents submitted by the petitioner that it had enclosed a list with its technical bid indicating the clients to whom manpower had been supplied by it. Be that as it may, not having proven experience was not the ground on which the petitioner's technical bid was rejected or the petitioner was found disqualified, as would be evident from Annexure-C to the counter-affidavit. The only ground on which the petitioner was found disqualified by the Technical Evaluation Committee, as would be evident from Annexure-C, was its non-submission of labour contract licence.

It also appears from the order of rejection that opportunity had been given to one of the bidders being M/s. Chancellor Infotech, Bhubaneswar to prove its experience. Such opportunity could have been given to the petitioner. Thus the order of disqualification suffers from the vice of discrimination.

13. Law is well settled that whatever procedure be followed while inviting tenders, the terms which need to be complied with by an applicant must be clearly, specifically and unambiguously stated in the Tender Call Notice to avoid a bona fide error by an applicant.

14. After patiently hearing the learned counsel for the parties, meticulously examining the documents produced by either side and diligently considering the submissions made, we find that in the absence of any specific stipulation made in the Tender Call Notice or tender documents, clearly and unambiguously stating therein that an applicant should furnish the labour contract licence in respect of its previous works, the opposite party-authorities could not have rejected the technical bid of the petitioner on that score. As has been held earlier, a labour contract licence cannot be obtained in respect of the particular work and can only be obtained after entrustment of the work as has been held in 1997 (II) OLR 284 (supra). In view of the aforesaid facts, we have no hesitation to hold that the decision of the Technical Evaluation Committee disqualifying the technical bid of the petitioner only on the ground of non-submission of labour contract licence was not just or proper and the order/letter dated 29.9.2003 issued to the petitioner vide Annex-ure-2 is to be quashed”.

11. The circular issued by the Government of Jammu and Kashmir through the Office of Labour Commissioner dated 20.11.2020, also

clarifies the issue.

12. For the foregoing, discussion, the instant petition is disposed off, at this stage with the direction to the respondents to allow technical bid of the petitioner-firm without insisting it for submission of labour registration licence at pre-allotment stage and to accordingly, consider his bid along with other received bids for comparative analysis provided the other requirements are complied with by it and subject that the tender process has not already been finalized with the issuance of the contract work.
13. 14. The writ petition is ***disposed of*** along with connected CM(s).

(Mohd Yousuf Wani)
Judge

SRINAGAR

26.09.2026.

"Abdul Rashid"

<i>Whether the order is speaking;</i>	<i>Yes</i>
<i>Whether the order is reportable:</i>	<i>Yes</i>