



भारतीय प्रतिरक्षा मजदूर संघ
Bharatiya Pratiraksha Mazdoor Sangh
(AN ALL INDIA FEDERATION OF DEFENCE WORKERS)
(AN INDUSTRIAL UNIT OF B.M.S.)
(RECOGNISED BY MINISTRY OF DEFENCE, GOVT. OF INDIA)

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REF: BPMS/ CVC/ Complaint/ 186(8/1/R)

Dated: 01.02.2023

To,

The Chief Vigilance Commissioner
Central Vigilance Commission
Satarkta Bhavan
G.P.O. Complex, Block 9A
INA, New Delhi 110 023

Subject: Complaint against Master General of Sustenance/Proc(GS&C), Integrated Headquarters of MoD (Army) Room No- 620, A Wing, Sena Bhawan DHQ PO, New Delhi -110 011.

Reference: Tender Enquiry in the GeM portal vide Bid Number:GEM/2022/B/2575088 Dated: 21-11-2022 for supply of 1170159 Nos of Combat Uniform Digital Print As a Set of Jacket, Trouser & Cap for Male (Q3).

Sir,

It may be relevant to mention that Vide Ministry of Defence Letter No.1(5)/2021/OF/DP/Plg(V) dt.21/06/2021. it was conveyed that the Cabinet Committee on Security in its meeting held on 29/07/2020 had approved to convert Ordnance Factory Board, a subordinate office of the Ministry of Defence into one or more than one 100% Government owned corporate entities, registered under the Companies Act 2013. It was also further stated that the Cabinet in its meeting held on 16/06/2021 has inter-alia approved to convert the production units of OFB into 07 DPSUs.

One of the Seven New Companies created by the Government is M/s Troop Comforts Limited.

M/s Troop Comforts Limited is a Public Sector Undertaking incorporated on 16th August 2021 under the companies Act, 2013(18 of 2013) with 100 % equity share held by Government of India. Its authorized capital is Rs. 5000 Crore and its paid up capital is Rs. 4557.28 Crore. M/s Troop Comforts Limited Corporate Identification Number is (CIN) U18109UP2021GOI150744 and its registration number is 150744. Its registered address at GT Road Kanpur UP 208013 IN .

The following units of the erstwhile Ordnance Factory Board were brought under M/s Troop Comforts Limited

- 1) Ordnance Equipment Factory Kanpur (Established in 1859).
- 2) Ordnance Clothing Factory Sahajahanpur (Established in 1879).
- 3) Ordnance Clothing Factory Avadi (Established in 1961).
- 4) Ordnance Equipment Factory Hazratpur (Established in 1965).

By virtue of its operating status, M/s Troop Comforts Limited has expertise only in the field of Garmenting and it is involved in manufacture of Life Cycle Clothing (LCC), Extreme Cold Climate Items (ECC), Special Clothing & Mountaineering Equipment (SCME), Supply Drop Equipment (SDE), Water Storage Equipment, Covers, Tentages, Leather Items, Arrester Barrier, General Stores, etc for Defence Services and Civil Sector.

The Company is involved in manufacture of Life Cycle Clothing (LCC), Extreme Cold Climate Items (ECC), Special Clothing & Mountaineering Equipment (SCME), Supply Drop Equipment (SDE), Water Storage Equipment, Covers, Tentages, Leather Items, Arrester Barrier, General Stores, etc for Defence Services and Civil Sector.

In a meeting held on 16/07/2021 Chaired by the Hon^{ble} Raksha Mantri Ji, it was assured to this Federation that the Government is committed to ~~hand held~~ the newly formed DPSUs by ensuring regular flow of orders.

The above assurance was reiterated by the then Defence Secretary in another meeting held with this Federation on 27/08/2021 with further words of hand holding through ~~financial and Non Financial Interventions~~.

However, the Master General of Sustenance/Proc(GS&C),MGS/Proc(GS&C) Integrated Headquarters of MoD (Army) Room No- 620, A Wing, Sena Bhawan DHQ PO, New Delhi -110 011 published Tender Enquiry in the GeM portal vide Bid Number: GEM/2022/B/2575088 Dated: 21-11-2022 for supply of 1170159 Nos of Combat Uniform Digital Print As a Set of Jacket, Trouser & Cap for Male (Q3) in contravention to the above assurances.

Among other terms and conditions, the bid specifies the following in the bid document.

- Minimum Average Annual Turnover of the bidder (For 3 Years) 3000 Lakh (s).
- OEM Average Turnover (Last 3 Years) 3000 Lakh (s).

Further, in the Buyer added terms and conditions Part-I, pre-qualification criteria, the following is prescribed under clause 19 (c)

- Bidders should have the capability / activities and machineries irrespective of locations(location may be same or at different places) being carried out under one legal entity holding one PAN for wet processing, dyeing, printing and garmenting. All bidders will enclose an undertaking as per Appendix ~~Dq~~

Further, in the Buyer added terms and conditions Part-I, pre-qualification criteria, the following is prescribed under clause 19 (e) :

- The average annual financial turnover of the bidder during last three years ending 31 Mar 2022 should be Rs. 30.00 Cr as per annual report. Accordingly, the bidder is required to enclose the audited balance sheet and profit and loss certificate of last three completed financial year duly countersigned by chartered accountant.

The above terms and conditions of the bid has put M/s Troop Comforts Limited out of race as it is a newly incorporated entity and does not fulfil any of the above terms and conditions.

Textile and Garment sectors are two completely different segments and very few vendors across India have integrated these (wet processing, dyeing, printing and garmenting.) facilities under one legal entity. Backward integration of Garment industry with textile sector by inserting such restrictive condition, under one legal entity is likely to favour certain private industries.

It is also pertinent to mention here that textile industry comprises of Spinning, weaving and processing (**wet processing, dyeing, and printing**) sector, whereas garment industry sources the basic fabrics from the textile industry and converting the same into wearable end products (through cutting of fabrics, stitching and finishing).

In spite of India being a hub of Garment Industry, but due to clubbing of two entirely different segments of industry as mentioned in the tender clause condition, even large garment manufacturing enterprises shall not be able to participate in the bidding.

M/s Troop Comforts Limited in spite of being a regular supplier of Combat Uniforms is also unable to participate in the bidding due to the aforesaid restrictive terms & conditions.

Combat Uniforms had been designed, developed and manufactured by Ordnance factories since introduction. OCF Avadi, a unit of Troop Comforts Limited has always taken a lead role in the continual improvement of Combat Uniforms. Since its introduction (2005), more than One Crore sets have been successfully delivered under self-certification to Army without any adverse feedback.

Time and again CVC has been issuing guidelines regarding avoiding restrictive tender conditions and emphasizing on a fair competitive environment. The present restrictive conditions are an open violation of the Doctrine of Contra- Proferentem in Contracts Management as per CVC guidelines. It is reiterated that Textile and Garment sectors are two completely different segments and very few vendors across India have integrated these (wet processing, dyeing, printing and garmenting.) facilities under one legal entity. Backward integration of Garment industry with textile sector by inserting such restrictive condition, under one legal entity is likely to favour certain private industries.

Further, Manufacturing of garment is reserved for MSME sector as per point no.11 and item no. 123 as mentioned in the list of 358 items of MSME order dated 23.03.2012 and only Ordnance factories are exempted from this list to manufacture the garments.

Army is providing basic fabric of newly designed Combat Uniform to its CSD stores @ Rs. 2300 (inclusive of taxes) and the Benchmark price as mentioned in the bid is around Rs.3000. TCL can supply the entire quantity well within the benchmark price set by Army HQ. if the restrictive conditions are removed.

Due to the restrictive conditions, there is a severe likelihood of M&A and cartelization on one hand and killing of legitimate and fair competition on the other hand.

In the case of Reliance Energy & Anr. v. Maharashtra State Road Development Corporation Ltd & Ors.: (2007) 8 SCC 1 the Hon'ble Supreme Court has observed that the terms and conditions of tender must indicate the norms and benchmarks with legal certainty; and if there be any

vagueness and subjectivity in the said norms, it may result in unequal and discriminatory treatment and violate the doctrine of level playing field.

In the instant case too, in spite of its excellent past performance, imposing such restrictive terms & conditions to deliberately put M/s Troop Comforts Limited in an disadvantageous position and is thus improper and discriminatory.

Further, these restrictive terms & conditions are contrary to the established norms of the textiles industry in general and is clearly aimed at favouring only a section of manufacturers. Thus it not only violates the fundamental principles governing Article 14 of the Constitution of India but also The United Nations set of principles on competition (The UN Set).

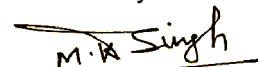
The restrictive terms & conditions as contained in the bid document being discussed adequately meets the threshold of mala fide intention to favour someone or arbitrariness or irrationality or perversity and thus needs immediate intervention of this Honorable authority to ensure a fair and legitimate opportunity to all including M/s Troop Comforts Limited.

In view of the above, Central Vigilance Commission is requested to intervene in the matter immediately and stop the procurement process, which as discussed above, has been designed to favour few chosen firms.

An immediate action in the matter is requested and shall be highly appreciated.

Thanking you.

Sincerely Yours



(MUKESH SINGH)

General Secretary/ BPMS &
Member JCM II Level Council (MoD)