



2025:DHC:7834-DB



\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**  
% Judgment reserved on: 01.09.2025  
Judgment delivered on: 09.09.2025  
+ W.P.(C) 11949/2025 & CM APPL Nos.48752/2025 & 48753/2025  
MADNANI ENGINEERINGS WORKS ...Petitioner  
versus  
UNION OF INDIA AND ANOTHER ...Respondents

**Advocates who appeared in this case:**

For the Petitioner : Mr. Kirti Uppal, Senior Advocate with Mr. Ashish Khorana and Ms. Archisha Satyarthi, Advocates.

For the Respondents : Mr. Vikram Jetly, CGSC with Ms. Shreya Jetly, Advocate for UOI/R-1.  
Ms. Avshreya Pratap Singh Rudy, Senior Panel Counsel with Ms. Usha Jamnal, Ms. Harshita Chaturvedi and Mr. Mohammad Junaid Mahmood, Advocates for UOI.  
Ms. Shweta Bharti, Mr. Sumit Malhotra and Ms. Nikita Sharma, Advocates for R-2.

**CORAM:**

**HON'BLE THE CHIEF JUSTICE**

**HON'BLE MR. JUSTICE TUSHAR RAO GEDELA**

**J U D G M E N T**

**TUSHAR RAO GEDELA, J.**

1. Present petition is filed under Article 226 of the Constitution of India, 1950, *inter alia*, seeking following relief:

*“a. issue an appropriate writ, Order or direction in the nature of Mandamus or any other writ, thereby Quashing the already issued Bid No.GEM/2025/B/6309330 FOR SUPPLY OF "JERRYCANS" AS PER IS 8996, CLOSING DT. 04-08-2025, issued by Respondent No. 1 and recalling/reissuing the said Bid.*



*b. issue an appropriate writ, or any other Writ or Order or direction in the nature of Certiorari or mandamus, thereby directing the Respondent not to proceed further with such or similar acts, whereby a product sold with different names be acceptable and past registered suppliers be recognized with the new Vendor Assessment Agency automatically.”*

2. It is the case of the petitioner that the petitioner is an ISO 9001:2015 certified company, established in 1991, engaged in manufacturing a wide range of Solar Lighting Solutions, Defence Accessories, Mountaineering Equipments, Steel Kitchen containers, Anti-Skid Chains, Kerosene Lanterns and other products. The petitioner claims to be a regular supplier to various Government agencies.

3. On 07.07.2025, the respondent no.1 through respondent no.2/GeM floated a tender for supply of “*Jerrycans as per IS 8996*” (hereinafter referred to as “*Jerrycans*”) specification, reserved for Micro and Small Enterprises (hereinafter referred to as ‘*MSE*’), with last date of submission being 04.08.2025 (19:30 hrs).

4. The petitioner claims that it has earlier supplied Jerrycans of the said specifications to the Indian Army and holds all necessary approvals and certifications, including Directorate General of Quality Assurance (hereinafter referred to as “*DGQA*”) Registration. The petitioner had completed Vendor Assessment through Quality Council of India (hereinafter referred to as “*QCI*”) on 20.07.2023, and was successfully listed as an Original Equipment Manufacturer (hereinafter referred to as ‘*OEM*’) on GeM under the product category “*FUEL CONTAINER 20 LTR*”.

5. It is the case of the petitioner that on 30.07.2025, while attempting to submit its online Bid, the petitioner was unable to upload the documents. A



pop up appeared with heading “*bidplus.gem.gov.in says*” that “*Manufacturing MSE for this product is required as the bid is reserved for MSE*”, and the petitioner was automatically logged out of the bidding page.

6. The petitioner states that it raised a ticket dated 31.07.2025 with respondent no.2/GeM reporting the aforesaid issue. It is also their case that again on 01.08.2025, the petitioner raised a formal ticket with the respondent no.2/GeM Admin Team, requesting that its OEM status under “*Fuel Container 20 Ltr*” be mapped to “*Jerrycans as per IS 8996*”, so that its existing Vendor Assessment Report (hereinafter referred to as “*VAR*”) and OEM credentials could be considered for participation in the bid.

7. As no response was received from the respondents, the petitioner has been constrained to approach this Court by way of the present writ petition.

8. Mr. Kirti Uppal, learned senior counsel for the petitioner predicates his submissions on two issues, namely, (i) that the non-acceptance of the bid of the petitioner on the ground that the petitioner is not an MSE is factually incorrect and (ii) the petitioner is an OEM manufacturing Jerrycans which was required as per the tender.

9. For the purpose of supporting the contention that the petitioner is an MSE, learned senior counsel relied upon the communication dated 31.07.2025 issued by the Ministry of Defence, Directorate General of Quality Assurance indicating that the monetary limit of average manufacturing sales of Financial Years 2022-23 and 2023-24 is Rs.56.64 Crores. Based thereon, he submits that the petitioner is an MSE. That apart, learned senior counsel has handed over a compilation of documents on 08.08.2025 enclosing the Udyam



Registration Certificate indicating that for the years 2024-25 and 2025-26, the petitioner is registered as a Small Enterprise. Thus, according to him, there could no doubt that the petitioner is an MSE and as such the noting which appeared while attempting to submit the bid online on 30.07.2025 to the extent that “*Manufacturing MSE for this product is required as the bid is reserved for MSE*”, wrongly denied the opportunity to the petitioner to submit its bid.

10. In order to support his contention that petitioner is an OEM for Jerrycans, learned senior counsel referred to a document at page 222 of the paper book which according to him was the registration of the petitioner with the GeM Portal in respect of a VAR. He claims that according to the said document, both, Jerrycans and Fuel Containers are the same as per the specifications and drawings. He thus submits that though in the said document, as against Jerrycans the Assessor Response is reflected as “Invalid” for the purpose of falling within the category of OEM yet, as against Fuel Containers, the Assessor response is reflected as “Valid” for the purpose of falling within the category of OEM. He stoutly contends that once it is deemed that Fuel Containers and Jerrycans are one and the same, the fact that the petitioner is an OEM for Fuel Containers, would be a relevant consideration for the purpose of eligibility criteria as required in the tender.

11. In view of the above two contentions, learned senior counsel vehemently submits that since petitioner has been denied a fair opportunity to participate and submit its bid and since the bid has progressed without petitioner’s participation unfairly, the tender notice itself should be quashed and a direction for issuance of a fresh tender should be passed.



12. *Per Contra*, Ms. Bharti, learned counsel appearing for the respondent no.2/GeM submits that the petitioner though is an MSE, however is not a OEM for Jerrycans. In order to substantiate the said argument, learned counsel invites attention of this Court to the complete document of the VAR dated 20.07.2023. She points out that at Serial No. 14 of such report, as against the category of Fuel Containers the status of the petitioner is recognized as an OEM, whereas in contradistinction, at Serial No. 36 as against the category of Jerrycan, the status of the petitioner is referred to as “Not an OEM”. In order to buttress the said contention, she invites our attention to page 205 of the paper book, which is a part of the VAR, particularly to para 3 in the Video Assessment Feedback. She contends that those products which were not complying with the GeM specifications, including the item at Serial No. 36, were marked as “Not an OEM”. She submits that this clarification was known to the petitioner on and from 20.07.2023 and yet the petitioner did not seek either any clarification or rectification of Serial No. 36.

13. In order to impress upon us that Jerrycans and Fuel Containers are two separate and distinct products, envisaged not only by the GeM or the tender issuing authority but also the entities in the production of such items, Ms. Bharti referred to page 251 of the petition where the distinction between the two items is clearly made out. That apart, she refers to clause 6 of the bid document to submit that it is only the OEM, of the products required for procurement, alone who was entitled to submit the bids and traders/resellers were excluded from the purview of the bid document. According to her, the petitioner clearly does not fulfil the requirement of the eligibility conditions and as such cannot have any grievance in respect of not having been able to



submit its bid document. Clause 6 is extracted hereunder:-

*“6. Procurement under this bid is reserved for purchase from Micro and Small Enterprises having valid Udyam Registration and whose credentials are validated online through Udyam Registration portal. **If the bidder wants to avail themselves of the reservation benefit, the bidder must be the manufacturer/ OEM of the offered product on GeM. Traders are excluded from the purview of Public Procurement Policy for Micro and Small Enterprises and hence resellers offering products manufactured by some other OEM are not eligible to participate in this respect of bid for Services, the bidder must be the Service provider of the offered Service.** Relevant documentary evidence in this regard shall be uploaded along with the bid in respect of the offered product or service, and Buyer will decide eligibility based on documentary evidence submitted, while evaluating the bid. Benefits of MSE will be allowed only if seller is validated on-line in GeM profile as well as validated and approved by Buyer after evaluation of documents submitted.”*

(emphasis supplied)

14. Having heard learned counsel for the parties, perusing the records of the case, we are unable to agree with the contentions of learned senior counsel for the petitioner.

15. In respect of the first contention regarding whether petitioner is a MSE or not, the same need not detain us as learned counsel for the respondent, as noted in the order dated 11.08.2025, had clearly stated that the petitioner is an MSE. That apart, the Udyam Certificate enclosed with the compilation of documents dated 08.08.2025 indicate that the petitioner is indeed a small industry certified as such for the years 2024-25. Thus, we need not render any separate finding or opinion in that regard.

16. The only contention remaining to be considered by us in respect of as to whether the petitioner is an OEM for Jerrycan. The contention of Mr. Uppal, learned senior counsel that Fuel Containers and Jerrycans are one and the same, does not appear to be correct when records are scrutinised. To



appreciate the said controversy, it would be apposite to first consider as to whether Fuel Container and Jerrycan are one and the same. The distinction is clear from the table at page 251 of the petition which is extracted hereunder:-

**“Specification of Jerrycans as per IS 8996**

1	<i>Conforming to Indian Standard or Joint Service Specification</i>	1. IS 8996 : Latest 2. For Defence JSS 7240-02:2000 (Rev No.1) with amdt No. 1
2	<i>ISI Mark</i>	1. Yes 2. No
3	<i>Material</i>	<i>Mild Steel</i>
4	<i>Capacity</i>	<i>20 Ltr</i>
5	<i>Pre-treatment, Phosphating and Stove Enameling painting</i>	<i>Yes</i>

**Full Containers (Version 2)**

1	<i>Surface Finish</i>	1. Powder Coated 2. Rust Resistant Treatment 3. Polished 4. Painting IS 9862
2	<i>Material</i>	<i>Plastic, Iron, Aluminium, HDPE, Stainless Steel, Mild Steel, Polyplene, LDPE, Galvanized Steel</i>
3	<i>Height (length/millimetre)</i>	<i>100-140, 141-180, 181-220, 221-260, 261-300, 301-340, 341-380, 381-420, 421-460, 461-500</i>
4	<i>Weight (mass/kilogram)</i>	<i>1-5, 5-10, 10-15, 15s20, 20-25, 25-30, 30-35, 35-40, 40-45, 45-50</i>
5	<i>Body Thickness (length/millimetre)</i>	<i>0.4-0.8, 0.8-1.2, 1.2-1.6</i>
6	<i>Length (length/millimetre)</i>	<i>100-150, 150-200, 200-250, 250-300, 300-350, 350-400, 400-450, 450-500, 500-550, 550-600, 600-650</i>
7	<i>Width (length/millimetre)</i>	<i>50-80, 80-110, 110-140, 140-170, 170-200, 200-230, 230-260, 260-290, 290-320, 320-350</i>
8	<i>Capacity (volume/liter)</i>	<i>3, 5, 10, 15, 20, 25, 30, 1, 7.5, 22</i>



9	Warranty Period (time/year)	1, 2, 3, 4, 5, 6, 7, 8, 9, 10
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From the above, it is quite apparent that “Fuel Containers” are a “genus” and “Jerrycans” are “specie”. In other words, all Jerrycans would be Fuel Containers but all Fuel Containers need not necessarily be Jerrycans. The Jerrycans may be subsumed within the definition of Fuel Containers but Fuel Containers may be containers other than Jerrycans. The distinction is also clear from the fact that on the one hand, Jerrycans as per the IS 8996 are to be made from Mild Steel, whereas the Fuel Containers (Version 2) could be made of Plastic, Iron, Aluminium, HDPE, Stainless Steel, Mild Steel, Polyplene, LDPE or Galvanised Steel. Another distinction appears to be in respect of the capacity too. Thus, it is quite clear that both these products, though seemingly similar, yet are distinct. *Ergo*, it is not necessary that an entity who may be an OEM for a Fuel Container would also be eligible to call itself an OEM for Jerrycan.

17. We now refer to the complete copy of VAR dated 20.07.2023, placed on record by respondent/GeM, which clearly indicates that it was only in respect of Fuel Container that the petitioner was registered and recognized as an OEM. However, so far as Jerrycan is concerned, the petitioner was clearly kept in the category of “Not an OEM”. Keeping in view the above distinction between Fuel Container and Jerrycan, it cannot be concluded with certainty that an entity which is an OEM for the Fuel Container would also be deemed to be an entity which is an OEM for Jerrycan. Moreover, according to para 3 of the Video Assessment Feedback of the said VAR, it is clear that Jerrycan at Serial No. 36 was not complying with the GeM specifications and therefore



the petitioner was marked as “Not an OEM”. The said VAR dated 20.07.2023 is stated to be valid till three years and would have expired in the month of January, 2026. It is not disputed that para 3 of the Video Assessment Feedback of the said VAR was in the knowledge of the petitioner, yet, before seeking to submit its bid, the petitioner did not get the same rectified, if at all it claims to be an OEM for Jerrycans. Even today, the petitioner has been unable to show any document to establish that the petitioner is an OEM for Jerrycans except to orally submit that Fuel Containers and Jerrycans are the same products.

18. The reliance of Mr. Uppal on the VAR at page 222 to submit that Fuel Containers and Jerrycans are the same as per the specifications and drawings is completely misplaced and self-serving. This is for the reason that the VAR is a self-filling Format except for the Assessor Response at the last column of the table which is assessed by the Assessor. Thus, reliance on a self-serving statement of the petitioner is misconceived and accordingly rejected.

19. Mr.Uppal had also relied upon the VAR dated 21.08.2025 to contend that the respondent GeM as well as the respondent RITES both have recognised as per the Video Assessment Remarks that Jerrycans and Fuel Containers are the same and that according to the VAR, petitioner is an OEM. He submits that this VAR can be taken into consideration for the purposes of permitting the petitioner to submit its bid once the original tender which has been challenged herein is cancelled or recalled.

20. To the aforesaid argument of learned senior counsel, we can only observe that the VAR of 21.08.2025 may be a document which can be



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considered in future by the tendering authorities subject to its authenticity and other tender conditions. So far as the present tender is concerned, the bid closed on 04.08.2025 and as on that date the VAR dated 20.07.2023 categorically placed the petitioners' status in respect of Jerrycans as "Not an OEM". Thus, as on the date of the closing of the bid submission, the petitioner was not eligible to submit its bid having regard to the provisions of Clause 6 of the bid document.

21. Thus, in view of the above, we find the writ petition unmerited and the same is dismissed alongwith pending applications without any order as to costs.

**TUSHAR RAO GEDELA, J**

**DEVENDER KUMAR UPADHYAY, CJ**

**SEPTEMBER 9, 2025/rl/aj**