

**IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL****THE HON'BLE CHIEF JUSTICE MR. MANOJ KUMAR GUPTA****AND****THE HON'BLE JUSTICE MR. ALOK MAHRA****Writ Petition (M/B) No.714 of 2026**

M/s Babaji Advertising Agency.

----Petitioner

Versus

Union of India & Others

----Respondents

September 24, 2026**-----
Presence:-**

Mr. Parikshit Saini, learned counsel for the petitioner.
Mr. Rajesh Sharma, Standing Counsel for Union of India.
Mr. Sanjay Bhatt, learned counsel for respondent no.4.
Mr. B.D. Pandey, learned counsel for respondent no.5.

JUDGMENT : (per Mr. Manoj Kumar Gupta, C. J.)

1. The present writ petition has been filed assailing the Auction Notice dated 22.08.2026 issued by respondent no.4 on GeM Portal and for a writ of mandamus directing respondent nos.2, 3 & 4 to adhere to the stipulations in the Manual for Procurement of Consultancy and other Services issued by the Union of India.

2. The petitioner, a proprietorship firm and a M.S.M.E., participated in online tender process for establishment of 6 Unipoles and 50 Poles for advertisement within the jurisdictional area of Nainital Cantt. in pursuance of tender notice dated 03.07.2026 issued by Cantonment



Board of Nainital. The bid of the petitioner was for ₹16,95,660/- for one year, equivalent to ₹50,86,980/- for three years. However, the bid of the petitioner firm was rejected on the ground that the window on the GeM Portal was not showing the petitioner as M.S.M.E. The petitioner challenged the rejection of his bid by filing WPMB No.662 of 2026 and when it came for hearing before the Court, learned counsel for the Cantonment Board stated that the tender process itself had been cancelled and, consequently, the writ petition was disposed of by order dated 13.08.2026 as infructuous. The Cantonment Board, thereafter, had issued another tender notice on 24.08.2026 on GeM Portal. Thereunder, the bids were to be submitted within three days i.e. between 22.08.2026 starting at 1400 hours till 24.08.2026 upto 1200 hours. According to the petitioner, the time given for submitting the bid was wholly insufficient and contrary to the specific stipulations in the Manual for Procurement of Consultancy and other Services issued by the Union of India, the relevant provisions whereof are as follows:

“(ii) The organisation should also post the complete bidding document in its website and on CPPP to enable prospective bidders to make use of the document by downloading from the web site.

(vi) Ordinarily, the minimum time to be allowed for submission of bids should be three weeks from the date of publication of the tender notice or availability of the bidding document for sale, whichever is later. Where the Department also contemplates obtaining bids from abroad, the minimum period should be kept as four weeks for both domestic and foreign bidders.”



3. It is also the case of the petitioner that 22.08.2026 was the fourth Saturday and 23.08.2026 was a Sunday (Bank Holiday).

4. According to the petitioner, on account of the Cantonment Board having provided only three days time, out of which, two days were holidays, the petitioner could not submit its bid. The petitioner has challenged the tender process.

5. The Court, while entertaining the writ petition, passed the following order on 09.09.2026:

“Mr. Parikshit Saini, learned counsel for petitioner.
Mr. Rajesh Sharma, learned counsel for respondent nos.1 to 3.
Mr. Sanjay Bhatt, learned counsel for the respondent no.4.

2. Petitioner has challenged the auction notice dated 22.08.2026 issued by Cantonment Board, Nainital on the ground that the auction notice was issued in violation of provisions contained in Rule 161 (ii) & (vi) of the General Financial Rules, 2017 issued by Central Government. Clause (ii) and (vi) are being reproduced hereunder for ready reference :

“(ii) The organisation should also post the complete bidding document in its website and on CPPP to enable prospective bidders to make use of the document by downloading from the web site.

(vi) Ordinarily, the minimum time to be allowed for submission of bids should be three weeks from the date of publication of the tender notice or availability of the bidding document for sale, whichever is later. Where the Department also contemplates obtaining bids from abroad, the minimum period should be kept as four weeks for both domestic and foreign bidders.”



3. Mr. Sanjay Bhatt, learned counsel appearing for the respondent no.4 is directed to get clear instructions on the aforesaid aspect within three days.

4. List on 15.09.2026.

5. Agreement, if executed in favour of the successful bidder, shall abide by final outcome of the writ petition.”

6. Thereafter, on 15.09.2026, the following order was passed:

“1. Mr. Parikshit Saini, learned counsel for petitioner.

2. Mr. Rajesh Sharma, learned Standing Counsel for the Union of India/respondent nos.1 & 3.

3. Mr. B.D. Pande, learned counsel for respondent no.2.

4. Mr. Sanjay Bhatt, learned counsel for the respondent no.4.

5. Mr. Sanjay Bhatt, learned counsel for the cantonment board has placed on record the instructions received from the Chief Executive Officer. He submits that the previous tender process was cancelled as it was based on reverse bidding whereas the appropriate mechanism required to be followed was the H-1 (Highest Bidder System). He further submits that the petitioner if claims to be MSME was not required to submit EMD and, therefore, the grievance that sufficient time was not provided to submit EMD is without any basis. His further contention is that the petitioner has not submitted any bid in the second tender process.

6. On the other hand, learned counsel for the petitioner submits that the petitioner in the previous round had quoted Rs.16,95,660/- for one year and Rs.50,86,980/- for three years, whereas in the present bidding process, the H-1 bid is merely for Rs. 10,00,000/- and odd. He reiterates that had the respondents followed the proper procedure, the petitioner would also have submitted his bid and which would have been not less than the bid made in the previous round.

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7. Mr. Sanjay Bhatt, learned counsel for the Cantonment Board, on such submissions being made, states that the Cantonment Board would verify the claim of the petitioner as regard the amount, for which bid was made in the previous bidding process. He also seeks time to obtain instructions as regards the submission that the petitioner is ready to take the same contract for more than Rs. 50 lakhs. Accordingly, he is granted time to obtain instructions within 24 hours.

8. Put up on 17.09.2026.”

7. Again the matter was heard at length on 17.09.2026 and the relevant part of the order passed on the said date is as follows:

“7. Mr. C. S. Rawat, Advocate, states that he would withdraw his power. Accordingly, we inquired from Mr. Sanjay Bhatt, Advocate, who is also present in the Court, as to whether he would like to make any submissions. In response, he submits that the Cantonment Board has not furnished him with any instructions concerning the offer made by the petitioner. He further submits that, in case, the petitioner makes offer of Rs.50 lakhs or more, which is substantially higher than the bid of the private respondent, then definitely the Cantonment Board would take the said aspect into consideration and decide whether to proceed with the present tender process or initiate fresh process. He further submits that the petitioner may however, be directed to deposit some amount to show that his offer is bonafide.

8. We find considerable force in the submissions made by Mr. Sanjay Bhatt, Advocate. Accordingly, we inquired from Mr. Parikshit Saini, learned counsel for the petitioner, as to whether the petitioner is ready to deposit Rs.25 lakhs before this Court to establish his bonafides, and the genuineness of his offer. We also informed him that, in case, the Cantonment Board decides to go for fresh tender process, and the petitioner does not participate in the same, or submit a bid of less than Rs.50 lakhs, then the amount would be forfeited in favour of the Cantonment Board, to which Mr. Parikshit Saini, learned counsel for the petitioner, has no objection.

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9. Accordingly, we grant the petitioner time till 22.09.2026 to deposit Rs.25 lakhs in favor of the Registrar General, High Court, by means of a demand draft. The said amount will remain in deposit until further orders of this Court.”

8. Pursuant to the aforesaid order, the Cantonment Board provided written instructions and agreed to re-tender the work, after cancelling the present tender process. The written instructions supplied by the Cantonment Board, through Chief Executive Officer in this behalf were duly taken on record on the last date.

9. The petitioner was permitted to implead the successful bidder, namely, Shri Govind Singh Bisht. Shri B.D. Pande, learned counsel had accepted notice on behalf of the successful bidder.

10. On matter being taken up today, Shri B.D. Pande, learned counsel appearing for the successful tenderer very fairly states that in case the Cantonment Board is going for re-tendering, he has no objection and he submits that it be left open to his client also to submit his fresh bid.

11. In view of the stand taken by the Cantonment Board and considering the statement made by Shri B.D. Pande, Advocate on behalf of successful bidder, we hereby quash the Tender Notice dated 22.08.2026 and permit the Cantonment Board to go for re-tendering of the work. It is



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made clear that the petitioner as well as the private respondent would be free to submit their bids in the fresh tender process as may be initiated by the Cantonment Board in respect of the work in question.

12. The sum of ₹25,00,000/- deposited by the petitioner in this Court in pursuance of the previous order shall remain in deposit till the finalization of the fresh tender process. Thereafter, it shall be open to the petitioner to file application for withdrawal of the said amount. The amount would be returned to the petitioner, after verifying that he had submitted his bid and that it was not technically non-responsive and also that it was for more than ₹50,00,000/-. In case any of the aforesaid conditions are violated, the amount would stand forfeited in favour of the Cantonment Board.

13. The Cantonment Board, as stated by Shri Sanjay Bhatt, learned counsel appearing for the Cantonment Board, shall endeavor to complete the process as expeditiously as possible.

14. The writ petition stands disposed of accordingly.

(MANOJ KUMAR GUPTA, C. J.)

(ALOK MAHRA, J.)

Dated: 24.09.2026

Arpan