

Minutes of the Meeting of the Review Committee on the Public Procurement

**Policy for Micro and Small Enterprises held under the Chairmanship of
Secretary (MSME) on 1st May, 2025 at 05:15 PM in Udyog Bhawan, New Delhi.**

The meeting of Review Committee on the Public Procurement Policy for Micro and Small Enterprises Order, 2012 (hereinafter referred to as the Review Committee) was held under the Chairmanship of Secretary (MSME) on 1st May, 2025 at 05:15 PM in Udyog Bhawan, New Delhi. The list of participants is at *Annexure*.

2. The meeting commenced with a presentation by Additional Development Commissioner (MSME) on the facts of the Writ Petition No. 1301 of 2021, filed by M/s Lifecare Innovations Private Limited and Anr. against Union of India and Ors and the judgment therein passed by Hon'ble Supreme Court of India dated 25.02.2025. The following directions have been inter alia passed by the Hon'ble Court:

***Para 29.** In view of the above, we direct the respondents, in particular the Review Committee constituted under clause 12 of the Procurement Preference Policy 2012, to examine this issue of mandatory procurement of 25 per cent of goods and services by the Government, its departments and instrumentalities from the MSEs under clause 3 of the Policy and notify whether the said procurement would be **independent** of the 358 items reserved for procuring from MSEs and take such action as is necessary for compliance of the Procurement Order 2012 and upload its decisions for the purpose of clause 5 of the Policy. The necessary action shall be taken within 60 days from our order.*

***Para 38.** In this view of the matter, apart from the earlier direction relating to mandatory procurement, we also direct the authorities under the Act, including the Review Committee and in particular the Grievance Cell, which is specifically entrusted with the obligation to redress "imposition of unreasonable conditions in tenders floated by Government Departments or agencies that put Micro and Small Enterprises at a disadvantage" to examine limits of minimum turnover clauses and issue necessary and appropriate policy guidelines.*

***Para 39.** Having considered the matter in detail, this writ petition is disposed of directing:*

(a) the Public Procurement Policy for Micro and Small Enterprises (MSEs) Order 2012 has force of law as it is formulated in exercise of power under Section 11 of the Act and also encapsulates the purpose and object of the Act;

(b) though there is no mandatory minimum procurement 'right' for an individual MSE there is certainly a statutorily recognized obligation on the authorities and the bodies under the Act and the Procurement Order 2012 to implement the mandate which is subject to judicial review;

(c) the judicial review will primarily ensure proper constitution and effective functioning of the authorities the National Board for MSMEs, the Advisory Committee, the

Facilitation Council, the Review Committee and the Grievance Cell and leave the policy and decision making to them.

(d) the respondents, and in particular, the Review Committee constituted under clause 12 of the Procurement Preference Policy 2012 to examine the issue of mandatory procurement of 25 per cent of goods and services by the Government, and its instrumentalities from MSEs under clause 3 of the Policy in the context of clause 11 providing for reservation of specific items for procurement and take such action as is necessary for effective implementation of the Policy within a period of 60 days from the date of our order; and

(e) the respondents, including the Review Committee and in particular the Grievance Cell, shall examine and declare limits of the minimum turnover clauses with respect to MSEs and issue appropriate policy guidelines within a period of 60 days from the date of our order.

3. Review Committee deliberated upon the issues emanating from the judgement of Hon'ble Supreme Court. The views of the Review Committee and the Actions proposed in compliance with the directions of Hon'ble Supreme Court are tabulated below:

Sl No	Directions of Hon'ble Supreme Court	View of the Committee and the Actions proposed
1	<p>Para 29. In view of the above, we direct the respondents, in particular the Review Committee constituted under clause 12 of the Procurement Preference Policy 2012, to examine this issue of mandatory procurement of 25 per cent of goods and services by the Government, its departments and instrumentalities from the MSEs under clause 3 of the Policy and notify whether the said procurement would be independent of the 358 items reserved for procuring from MSEs and take such action as is necessary for compliance of the Procurement Order 2012 and upload its decisions for the purpose of clause 5 of the Policy. The necessary action shall be taken within 60 days from our order.</p>	<p>It was unanimous view of the Review Committee that Clause 3 of Public Procurement Policy for Micro and Small Enterprises Order, which mandates all Central Government Ministries, Departments and PSUs to procure a minimum of 25 % of their annual value of goods and services from Micro and Small Enterprises (MSEs), is an overarching Clause and constitutes the core objective of the aforementioned Order.</p> <p>Further, Clause 11 of the Order specifically mandates that all Central Government or Ministries or Departments or PSUs shall continue to procure 358 items from Micro and Small Enterprises.</p> <p>The Review Committee was also of the unanimous view that provisions of Clause 11, regarding mandatory procurement of 358 items from MSEs are subservient to the provisions listed in Clause 3. The view of the Review Committee was that mandatory</p>

Para 39 (d)

the respondents, and in particular, the Review Committee constituted under clause 12 of the Procurement Preference Policy 2012 to examine the issue of mandatory procurement of 25 per cent of goods and services by the Government, and its instrumentalities from MSEs under clause 3 of the Policy in the context of clause 11 providing for reservation of specific items for procurement and take such action as is necessary for effective implementation of the Policy within a period of 60 days from the date of our order;

requirement of a minimum 25 % procurement from MSEs is not restricted to 358 items only, but includes all items procured from MSEs by Central Ministries, Departments and PSUs. Accordingly, it can be said that Clause 3 and Clause 11 of this Policy are not independent.

The Review Committee further noted that other Clauses of Public Procurement Policy Order e.g. providing additional benefits to MSEs such as exemption from payment of EMD, purchase preference etc. are “enabling clauses” to facilitate the implementation etc. of the objective of achievement of minimum 25 % mandatory annual procurement from MSEs.

The outcome/ Minutes of the Meeting of Review Committee shall be uploaded on the website of Office of Development Commissioner(MSME) and shall also be conveyed to the Petitioner No.1.

With reference to the mandatory procurement by CPSEs, the representative of Department of Public Enterprises (DPE) highlighted that CPSEs report the achievement of prescribed targets under the Policy. As DPE does have an annual marking system under which marks are deducted from annual rating, if they are unable to meet the targets and sub- targets under the Policy, the reasons for non-achievement are not sought. In this regard, it was opined that both Ministries of MSME and DPE, in tandem, may conduct a joint exercise with all active CPSEs. A discussion with them in along with DPE may also be held in this regard.

AS & DC suggested that there is a need to develop an institutionalized mechanism in form of joint/Biannual Meetings between Ministry of MSME and DPE, with CPSEs may be put in place to review the progress of the targets under the Order.

		<p>The Review Committee decided that bi-annual meetings may be held towards this end between Ministry of MSME, DPE and CPSEs. Based on the data available on MSME Sambandh Portal for the FY 2024-25, in furtherance of Clause 3 (4) Public Procurement Policy for MSEs Order, 2012, a communication shall be issued to all procuring entities who have failed to achieve the targets, as set under the Policy.</p>
3	<p>Para 39 (a)</p> <p>the Public Procurement Policy for Micro and Small Enterprises (MSEs) Order 2012 has force of law as it is formulated in exercise of power under Section 11 of the Act and also encapsulates the purpose and object of the Act;</p>	Noted
4	<p>Para39 (b)</p> <p>though there is no mandatory minimum procurement 'right' for an individual MSE there is certainly a statutorily recognized obligation on the authorities and the bodies under the Act and the Procurement Order 2012 to implement the mandate which is subject to judicial review;</p>	Noted
5	<p>Para 39 (c)</p> <p>the judicial review will primarily ensure proper constitution and effective functioning of the authorities the National Board for MSMEs, the Advisory Committee, the Facilitation Council, the Review Committee and the Grievance Cell and leave the policy and decision making to them.</p>	Noted
6	<p>Para 38.</p> <p>In this view of the matter, apart from the earlier direction relating to mandatory procurement, we also direct the authorities under the Act, including the Review Committee and in particular the Grievance Cell,</p>	<p>On the issue of minimum turnover requirements, the Review Committee was of the view that the Policy Circular issued by the Ministry of MSME (Circular No. 1(2)(1)/2016-MA dated 10th March, 2016) provides that all Central Ministries/Departments/Central Public Sector Undertakings may relax condition of prior turnover</p>

7	<p>which is specifically entrusted with the obligation to redress “<i>imposition of unreasonable conditions in tenders floated by Government Departments or agencies that put Micro and Small Enterprises at a disadvantage</i>” to examine limits of minimum turnover clauses and issue necessary and appropriate policy guidelines.</p> <p>39 (e)</p> <p>the respondents, including the Review Committee and in particular the Grievance Cell, shall examine and declare limits of the minimum turnover clauses with respect to MSEs and issue appropriate policy guidelines within a period of 60 days from the date of our order.</p>	<p>and prior experience with respect to Micro and Small Enterprises in all public procurement, subject to meeting of quality and technical specifications. The guidelines contained in the aforementioned Circular provide that procuring entities “may” relax condition of prior turnover and prior experience. The directions continued in Policy circular are not binding, given the wide-ranging difference in the quantum and quality of procurement requirements. Accordingly, at present, there is no minimum or maximum turnover prescribed by M/o MSME and the turnover requirements are determined by the procuring agencies within the overall audit of priorities of General Financial Rules 2017 of Ministry of Finance, Government of India.</p> <p>The Committee was of unanimous view that the issue of deciding minimum turnover clauses would need wider stakeholder consultations, as per the directions of the Hon’ble Supreme Court.</p> <p>The Review Committee decided that stakeholder consultations with DPE, CPSEs, MSME association be done and the Petitioner i.e. Life Care Innovation Private Limited may also participate in the discussions. An informed view on minimum turnover clause may then be taken by Ministry of MSME in compliance with the order of Hon’ble Supreme Court</p>
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4. The Meeting ended with a vote of thanks to all the participants.

Annexure

List of officers attending the Review Committee Meeting on 01.05.2025

S.No.	Department	Name of Officer	Mode of Participation
1	M/o MSME	Sh. S.C.L. Das, Secretary (MSME)	Chairman
2	O/o DC (MSME)	Dr. Rajneesh Additional Secretary and Development Commissioner (MSME)	Through VC
3	Governemnt e- Marketplace (GeM)	Sh. Ajit B Chavan, Additional CEO	
4	O/o DC (MSME)	Dr. Ishita Ganguli Tripathy Additional Development Commissioner	
5	Department of Public Enterprise (DPE)	Dr. Vasundhara Upmanyu, Joint Secretary	Through VC
6	Ministry of Health and Family Welfare	Sh. Rakesh Kumar, DDG, Dte. GHS	Through VC
7	O/o DC (MSME)	Ms. Rukmani Attri, Joint Development Commissioner	
8	Department of Expenditure (DoE)	Sh. Manish Bhatia, Director	
9	Railway Board	Sh. S. Natrajan, Director	Through VC
10	Deptt. of Defence Production, Ministry of Defence	Ms Karamjeet Kaur, DS	
11	NITI Aayog	MsAashwitaLal , Director	Through VC
12	O/o DC (MSME)	Sh. A. K. Tamaria, Joint Director (PPP)	
13	HLL Infra Tech Services Limited	Sh. Ashwini Kumar, Manager (Public Procurement)	Through VC
14	O/o DC (MSME)	Ms. Nitisha Mann, Dy. Director (PPP)	
15	O/o DC (MSME)	Shri Chandan. Assistant Director (PPP)	
16	O/o DC (MSME)	Shri Nitish Kumar, Assistant Director (PPP)	
17	O/o DC (MSME)	Shri Mukul Lather, Legal Consultant	