

IN THE HIGH COURT OF DELHI AT NEW DELHI

Reserved on: 30th May, 2011

Decision on: 11th July, 2011

W. P. (C) 8210/2010

FOOD & BEVERAGE FOUNDATION SOCIETY
& ORS

..... Petitioners

Through: Mr. Jayant Bhushan, Senior Advocate with
Mr. K. B. Upadhyay, Advocate.

versus

GOVT. OF NCT OF DELHI & ORS

..... Respondents

Through: Mr. Colin Gonsalves, Senior Advocate with
Ms. Jayshree Satpute and Ms. Sonia Sharma, Advocates
for R-1
Mr. Raman Duggal, Advocate for R-2 to 5.

AND

W. P. (C) 580/2011

LOVE & CARE SOCIETY

..... Petitioner

Through: Mr. A. T. M. Ranga Ramanujan, Senior
Advocate with Mr. Kameshwar Singh and Mr. M. K. Rai,
Advocates.

versus

GOVT. OF NCT OF DELHI & ORS

..... Respondents

Through: Mr. Sumeet Batra, Advocate for
Ms. Zubeda Begum, Advocate for GNCTD.
Mr. Rakesh Tikku, Senior Advocate with Mr. M. K.
Tripathi, Advocate for R-2.

CORAM: JUSTICE S. MURALIDHAR

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| 1. Whether Reporters of local papers may be
allowed to see the judgment? | No |
| 2. To be referred to the Reporter or not? | No |
| 3. Whether the judgment should be reported in Digest? | No |

JUDGMENT
11.07.2011

1. Writ Petition (Civil) No. 8210 of 2010 filed by the Food and Beverage Foundation Society and four other organizations seeks the setting aside of the selection of non-profit organizations ('NPOs')/non-governmental organizations ('NGOs') by the

Government of National Capital Territory of Delhi ('GNCTD') in the Department of Women and Child Development, Respondent No. 1, pursuant to an expression of interest ('EOI') invited by the GNCTD for providing supplementary nutrition in the form of hot cooked food to the beneficiaries of 40 new Integrated Child Development Scheme ('ICDS') projects for children up to the age of six years, pregnant and lactating women, adolescent girls and weaning food for children up to the age of twelve months for 300 days in a year in Delhi. The NPOs/NGOs that have been selected have been impleaded as Respondent Nos. 2 to 4 to the writ petition.

2. Writ Petition (Civil) No. 580 of 2011 is by the Love and Care Society which seeks a similar relief. The NPOs/NGOs that have been selected by the GNCTD have been impleaded as Respondent Nos. 2 to 4.

3. It must be mentioned that there was a third Writ Petition (Civil) No. 8209 of 2010 filed by Himalayan Institute of Pollution Control and Social Economic Development Centre seeking identical reliefs. On an application by the said Petitioner, by an order dated 9th May 2011 passed by this Court, the said writ petition was dismissed as withdrawn. However, since the pleading in the said writ petition was completed by that date, the parties in the present two writ petitions were permitted to rely upon the pleadings in Writ Petition (Civil) No. 8209 of 2010 as well.

4. On behalf of the Petitioners Mr. Jayant Bhushan, learned Senior counsel first submitted that each of the Petitioners was eligible in terms of the EOI invited by the GNCTD to be selected for supply of hot cooked food under the ICDS projects. According to him the Petitioners satisfied the essential criteria of being able to set up decentralised kitchens locally within the colonies in Delhi where the self-help groups ('SHGs') are located. Further, their financial position was sound. Each of them had resources and experience to undertake, in an uninterrupted manner for 300 days in a year, cooking and distribution in the Anganwadi Centres ('AWCs') through the SHGs as per the norms and standards prescribed under the ICDS. Mr. Bhushan referred to the inspection reports in respect of the Petitioners which only stated that they did not have a functioning unit at Delhi at the time of inspection and further that in some cases they were unable to furnish information regarding their work experience. It is submitted that the entire exercise was conducted arbitrarily as no opportunity was given to the Petitioners to supply the complete documentation which may not have been available

on the date of inspection. Importantly, it is stated that being located outside Delhi was not a disqualification as the EOI only stated that NPOs “preferably working in Delhi” would be considered for award of contract for supply of supplementary nutrition in the form of hot cooked food.

5. Mr. Bhushan submitted that many of the Petitioner organizations had vast experience in supply of mid-day meals (‘MDMs’) to children either under the ICDS or otherwise in different states in the country. Turning to the selection of Respondent Nos. 2 to 4 and certain other NPOs, Mr. Bhushan submitted that their selection smacks of arbitrariness and *mala fide*. One such NPO, viz, Ray Welfare Trust (‘RWT’) clearly did not have a functional unit in Delhi and had yet been preferred for award of the contract. As regards two other NPOs, viz., Stri Shakti Sangathan (‘SSS’) and Rao Raghubir Foundation (‘RRF’), there were earlier instances of food poisoning suffered by children in schools where MDMs were supplied by these two organizations. There was an FIR registered and criminal cases instituted against SSS, the details of which were not provided by SSS to the GNCTD at the time of submitting its application pursuant to the EOI. On this short ground SSS should have been disqualified. As regards RRF, it is submitted that its selection was contrary to the decision of the Division Bench of this Court in Writ Petition (Civil) No. 2714 of 2010 [*Harit Recyclers Association v. Union of India*, order dated 3rd June 2010]. In which this Court had emphasised that the State was under obligation to select proper persons with unblemished record of service. As regards the other selected NPO, Anmol, it is submitted that it had given wrong facts as regards its turnover. In the inspection report concerning Anmol no mention was made of the staff strength and functions whereas the absence of these details was held against the Petitioners. As regards Jan Chetana Jagriti Avam Shaikshanik Vikas Manch and Nav Prayas, it was submitted that these were sister concerns and most of their office bearers were the same. Bharat Ratna Dr. Bhimrao Ambedkar Society and Dalit Prahari were also stated to have the same registered address and their office bearers were related to each other. Further, Mr. Jayant Bhushan submitted that the Review Committee which went over the earlier recommendations of the Selection-cum-Screening Committee did not have the presence of two independent persons, viz, Dr. Salila Thomas and Dr. Kalyan Singh from the Food and Nutrition Department, Lady Irwin College. One of the special invitees Mr. Harsh Mander was also not present during the review exercise undertaken by the Committee. It was submitted that the GNCTD had acted at its whims and fancies and selected Respondent Nos. 2 to 4

NGOs/NPOs in an arbitrary and *mala fide* manner. It is submitted that there has been a gross violation of Article 14 of the Constitution.

6. Mr. A. T. M. Ranga Ramanujan, learned counsel appearing for Love and Care Society, in addition to adopting the submissions of Mr. Jayant Bhushan, emphasised the wrong selection of RRF contrary to the observations of this Court in ***Harit Recyclers Association***.

7. Mr. Colin Gonsalves, learned Senior counsel appearing for the GNCTD submitted that the complaints made by the Petitioners were taken seriously and a review committee went over each of the complaints meticulously. He referred to the minutes of the Selection-cum-Screening Committee both at the initial and review stages. He also referred to the affidavits dated 4th February and 7th February 2011 and the additional affidavits dated 9th March and 2nd May 2011 of the GNCTD. Further, he referred to the counter affidavit filed on behalf of Respondent Nos. 2 to 5, in which it was stated that the Petitioners had demanded money from them by way of extortion. Mr. Gonsalves submitted that the EOI indicated that preference would be given to groups working in Delhi in the field of nutrition. While being outside Delhi was not a disqualification, being located in Delhi was 'preferred'. It was admitted that an exception was made in respect of the RWT since it had a proven track record of rendering services under the schemes and projects of the Central Social Welfare Board. The detailed objections raised by the Petitioners in Writ Petition (Civil) No. 8209 of 2010 were placed before the Selection-cum-Screening Committee. After scrutiny of the objections, explanations were sought in some cases from the NPOs concerned for not disclosing the information about the pending criminal cases against them, while in others the earlier recommendations were reiterated.

8. Appearing for RRF, Mr. Rakesh Tiku, learned Senior counsel pointed out that Respondent Nos. 2 to 5 were not commercial organizations but NPOs. He submitted that RRF had vast experience in the supply of MDMs in schools. He referred to the decision of this Court in ***Dalit Manav Uthan Sansthan v. Commissioner, MCD 142 (2007) DLT 497*** to emphasise the limited scope of the power of judicial review of the Court in such matters.

9. The first issue concerns the interpretation of terms of the EOI inviting applications for the award of the contracts in question. The contents of the EOI read as under:

“Government of NCT Of Delhi
Department of Women & Child Development
1, Canning Lane, K.G. Marg, New Delhi-110001
ICDS – Expression Of Interest”

An Expression of interest is invited from the interested registered Non Profit Organizations (NPOs) preferably working in Delhi to set up/build the capacity of Self Help Group (SHGs) of women in order to enable them to take up the responsibility of providing supplementary nutrition in the form of hot cooked food to the beneficiaries for 40 new ICDS Projects i.e., Children up to the age of 6 yrs, Pregnant & lactating Women, adolescent girls and weaning food for children up to age of 12 months for 300 days in a year in the ICDS Projects in Delhi as per the following conditions for which the necessary budgetary support will be provided @ Rs. 5.00/- Per Adolescent Girl beneficiary per day, Rs. 5.00/- Per Child beneficiary per day, Rs. 5.50 per Pregnant/Lactating Women Beneficiary and Rs. 6.00/- per severely malnourished child beneficiary per day inclusive of transportation charges and taxes. The hot cooked food must be fortified with double fortified salt and other recommended dietary allowances prescribed by GOI under ICDS Scheme.

The applicant must be a Non Profit Organization registered under the Societies registration Act, 1860 (XXI of 1860) or the Trust Act 1882 (2 of 1882). It must have commitment to undertake the supply on a no profit basis.

The organization must have a proven track record of at least three years of mobilizing and organizing women's Self Help Groups and/or child welfare and women's empowerment including govt. supply of nutrition to children. The organization will have to handover the entire operation of the cooking and supplying to the women's SHG within a period of 18 months.

Essential Criteria: Organizations will be judged on the criteria of the number of decentralized kitchens that they can set up locally within the colonies where the SHGs are located. Financial position of the organization should be sound and must have resources & experiences to undertake nutrition, cooking & distributing finalized menu items in an uninterrupted manner for 300 days in a year in the AWCs assigned to them through the SHGs as per norms and standards prescribed under ICDS. The NPO should have a minimum turnover to Rs. 50 lakhs in 2009-10 to be eligible to apply for one project. The NPO will also have to mentor the SHGs. The applicant should be able to organize visit of the Department representatives to their work areas.

Telegraphic/ambiguous EOI involving time & financial implication shall not be accepted. In case of acceptances for supply in the allotted ICDS Project, the NPO will have to deposit performance security amount @ Rs. 2 lacs per project applied by way of Nationalized Bank Fixed Deposit/Bank Guarantee favouring the Account Officer, DWCD, 1, Canning Lane, K.G. Marg, New

Delhi-110001. This security amount shall be renewed as long as the NPO continues to get the work award.

The Expression of Interest shall be deposited in the Office of DD (ICDS), 1, Canning Lane, K.G. Marg, New Delhi-110001 latest up to 4.00 PM on 12.07.2010 in the prescribed format which may be obtained from the Office of DD-ICDS. No expression of interest shall be received thereafter under this Advertisement. The Department of DWCD reserves the right to reject the application(s) without assigning any reason. He further reserves the right to award consolidated order or separate orders for one or more projects. He further reserves the right to award consolidated order or separate order for one or more projects. No applicant shall be entitled for any compensation whatsoever for rejection of his application in full or part. Those who have applied earlier are also required to apply afresh in the prescribed format.”

10. The EOI does state that preference would be given to NPOs working in Delhi. However, an NPO outside Delhi would not be disqualified for that reason. The EOI clearly sets out the essential requirements. The organizations would be judged “on the criteria of the number of decentralized kitchens that they can set up locally within the colonies where the SHGs are located.” The advertisement does not explicitly state that an applicant has to show that it has a functioning unit located in Delhi. This, however, was one of the criteria adopted for short-listing the possible NPOs for the award of the contracts. Yet, the essential criteria required the inspection team to be satisfied that the NPOs that had made the application were capable of setting up decentralized kitchens. There had to be some functioning kitchen at the time of inspection by the GNCTD.

11. At this juncture, a reference may be made to Writ Petition (Civil) No. 4457 of 2010 earlier filed in this Court by the Himalayan Institute of Pollution Control and Social Economic Development Centre. An order was passed by this Court on 9th July 2010 noting the grievances of the Petitioner about one of the requirements of the essential criteria that the applicant NPO should have a minimum turnover of Rs. 50 lakhs in 2009-10. The further requirement was that such turnover had to be in relation to the activities of supply of MDMs and other nutrition schemes, including ICDS. Notice was directed to issue in the said writ petition by this Court limited to the above point. Subsequently a clarification was issued by the GNCTD on 29th August 2010 that for the purpose of being considered eligible, out of Rs. 50 lakhs “at least 10 lakhs turnover in 2009-10 should have been in the field of nutrition *viz* MDMs/ICDS.” It was further clarified that “preference will be given to NGOs having experience in the field of nutrition namely MDMs/ICDS.” The writ petition was disposed of on the basis of the

above clarification. The other criteria were therefore impliedly approved with the disposal of the writ petition.

12. The affidavit dated 7th February 2011 of the GNCTD sets out the sequence of events following the invitation of EOI and the clarification issued on 29th August 2010. It is stated that the applicant NGOs were sent letters on 26th October 2010 and 23rd/24th November 2010 pointing out the deficiencies in their respective applications. Copies of these letters have been placed on record. In the case of Himalayan Institute of Pollution Control and Social Economic Development Centre, for instance, the letter dated 26th October 2010 sought further details on whether the society could set up/build the capacity of the SHGs, proof of experience of three years in mobilizing and organizing women SHGs, details of decentralized kitchens the society could set up and the time frame in which they could be set up. Clearly, therefore, the applicants, including the Petitioners, were made aware of the deficiencies in their respective applications. It was only thereafter that the three inspection teams were constituted by the GNCTD to physically inspect/verify the locations of the NPOs. These did not include the 15 NPOs which were already supplying nutrition under the ICDS.

13. The affidavit of the GNCTD further points out that the nutrition supplied under the ICDS is different from the nutrition supplied under the MDM scheme. While in the former the beneficiaries are children in the age group of 0-6 years, in the MDM scheme the children beneficiaries are of higher age group. The sensitivity of food quality is therefore different. It has to be higher for beneficiaries under the ICDS. Accordingly, the NGOs are engaged on the basis of their proven track record. It is further stated that it was considered ideal to have decentralized kitchens so that there is no time lag in the preparation of the food in the kitchen and the distribution of the cooked food to the children. It is further pointed out that the SHG and decentralized kitchen model of the Delhi ICDS has been appreciated by the Government of India as well as the Food Commissioners appointed by the Supreme Court in W.P. (C) No. 196 of 2001 [*PUCL v. Union of India*]. The Court Commissioners had been monitoring from time to time the quality as well as timely supply of nutrition to the ICDS beneficiaries. Accordingly, it is stated that “all the major decisions regarding Delhi ICDS are taken in consultation with these Food Commissioners appointed by the Hon’ble Supreme Court.” The Selection-cum-Screening Committee constituted by the GNCTD by an office order dated 30th September 2010 consisted of Mr. Harsh Mander, the Court Commissioner

appointed by the Supreme Court in the **PUCI** case as a special invitee. The other members included Dr. Salila Thomas from the Food and Nutrition Department of the Lady Irwin College, Dr. Kalyani Singh of the same Department, the Deputy Director (Planning), Assistant Director (Planning) and a representative of Secretary Finance and the Deputy Director, ICDS as other members.

14. The inspection reports have also been placed on record by the GNCTD. As regards the Food and Beverage Foundation Society no staff strength was shown at the time of inspection. It was noted that the society was supplying MDMs in Uttar Pradesh but had no infrastructure in Delhi. It was also operating at the same address as Ghanshyam Sewa Samiti ('GSS'). On inspection, GSS was found supplying MDMs in Bagpat and Churu had no infrastructure or activity in Delhi. It was unable to show any document at the time of the spot inspection. Dayawati Educational and Charitable Society, Petitioner No. 3 in WP (C) 8210 of 2010, did not produce any document during the spot inspection. Poorvanchal Samaj Sewa Sangh, Petitioner No. 4, was supplying MDMs in Bihar and in Delhi it had worked with the Health Department. It had also been supplying MDMs in Delhi. Subharati Jan Kalyan Samiti, Petitioner No. 5, had supplied MDMs in Hapur with no activity in Delhi.

15. It is submitted on behalf of the GNCTD that there was a requirement of furnishing documents to establish, *inter alia*, the financial position of the NPO concerned. The importance of this is explained as under:

“That the financial position of the Organization should be sound and should have facilities, resources and experience to undertake Nutrition, Cooking and distribution in an uninterrupted manner for a minimum of 300 days in a year as per norms and standards prescribed under the ICDS Program.

For 100 AWCs in one Project, taking average of 100 beneficiaries per AWC, the food bill for 300 days @ Rs. 5/- beneficiary per day comes to Rs. 1.5 crore. On this basis, requirement of Rs. 50 lac turnover for each project was laid down.

Due to usual lag period of 2-3 months in release of govt. payment, the NGO must have financial strength to give uninterrupted nutrition supply without depending on office payments.

Strong financial base is required so that the NGO may purchase utensils & set up kitchens beforehand for which no extra payment is given.”

16. At this juncture, this Court would also like to make a reference to the decision of the Supreme Court in *Ekta Shakti Foundation v. Govt. of NCT of Delhi* (2006) 10 SCC 337. Those writ petitions were filed questioning the legality of certain terms in inviting offers for implementation of the “detailed Scheme for Capacity Building of Self Help Groups to Prepare and Supply Supplementary Nutrition under the Integrated Child Development Service (in short the ‘ICDS’) Programme.” Interestingly, one of the eligibility criteria was that there should be experience of at least three years of working in the relevant field such as the Child Development Nutrition Scheme of SHG supplementary nutrition etc. The Court observed as under:

“While exercising the power of judicial review of administrative action, the Court is not the appellate authority and the Constitution does not permit the Court to direct or advise the executive in the matter of policy or to sermonize any matter which under the Constitution lies within the sphere of the Legislature or the executive, provided these authorities do not transgress their constitutional limits or statutory power. (See *Ashif Hamind v. State of J. & K.* (AIR 1989 SC 1899), *Shri Sitaram Sugar Co. v. Union of India* (AIR 1990 SC 1277)). The scope of judicial enquiry is confined to the question whether the decision taken by the Government is against any statutory provisions or is violative of the fundamental rights of the citizens or is opposed to the provisions of the Constitution. Thus, the position is that even if the decision taken by the Government does not appear to be agreeable to the Court it cannot interfere.

The correctness of the reasons which prompted the Government in decision making, taking one course of action instead of another is not a matter of concern in judicial review and the Court is not the appropriate forum for such investigation.

The policy decision must be left to the Government as it alone can adopt which policy should be adopted after considering all the points from different angles. In matter of policy decisions or exercise of discretion by the Government so long as the infringement of fundamental right is not shown Courts will have no occasion to interfere and the Court will not and should not substitute its own judgment for the judgment of the executive in such matters. In assessing the propriety of a decision of the Government the Court cannot interfere even if a second view is possible from that of the Government.”

17. It was further pointed out that “a wrong decision in favour of any particular party does not entitle another party to claim the benefit on the basis of the wrong decision.”

While dismissing the writ petitions, it was explained as under:

“If the order in favour of the other person is found to be contrary to law or not warranted in the facts and circumstances of his case, it is obvious that such illegal or unwarranted order could not be made the basis of issuing a writ compelling the respondent-authority to repeat the illegality to cause another unwarranted order. The extraordinary and discretionary power of

the High Court under Article 226 cannot be exercised for such a purpose. (See: *Secretary, Jaipur Development Authority, Jaipur v. Daulat Mal Jain and Others* (1997) 1 SCC 35).”

18. This Court is satisfied, in light of the law explained by the Supreme Court, that there is no arbitrariness in the non-selection of any of the Petitioners for award of the contracts pursuant to the EOI invited by the GNCTD. The documents and records produced show that relevant criteria have been considered and irrelevant criteria kept out in taking such decision. The GNCTD was required to be satisfied of the capacity of the NPO to set up a decentralised kitchen. The Petitioners were unable to show that any of them had a functioning decentralised kitchen under the ICDS in Delhi. The adoption of such criterion as one among other criteria to evaluate the suitability of an NPO cannot be said to be arbitrary. Further, the distinction between supplying MDMs in schools and supplying nutrition and hot cooked food under the ICDS stands satisfied as explained by the GNCTD. These Petitioners have shown the experience of supplying of MDMs and not nutrition under the ICDS. On the aspect of financial soundness, in the absence of any document produced by the NPOs it cannot be said that the decision taken in relating to their applications by the GNCTD was arbitrary.

19. As regards the selection of Respondent Nos. 2 to 5 for the award of contracts, it is mentioned in the reply affidavit of the GNCTD that at the meeting of the Selection-cum-Screening Committee held on 26th November 2010 complete records, i.e., reports of the inspection team including the complaints received till date were placed. The affidavit lists out the decision of the Selection Committee as under:

“(1) Each existing ICDS NPOs shall be allotted at least two projects. In addition, one new project for every 04 existing projects shall be allotted (for the purpose of rounding off any NGO presently doing more than two projects and upto 04 projects shall be entitled for one additional project).

(2) NPOs blacklisted or declared to have had financial irregularity and/or confirmed deficient service delivery by any other Department of Govt. of Delhi including Mission Convergence will not be considered for award of any project.

(3) The Committee approves the allotment of Sangam Vihar Project from which CASP Plan had withdrawn to Nav Prayas as done earlier in the

emergency to ensure continuity of Supplementary Nutrition supply by the Department.

(4) The additional Anganwadi centres shall be clubbed with the existing suppliers (NPOs) through SHGs.

(5) In awarding the Projects, the Department would keep in mind the existing work area/field of operation as well as preference given by the NGOs.”

20. Therefore it was not as if relevant criteria were not considered in awarding the contracts to Respondents 2 to 4.

21. During the pendency of Writ Petition (Civil) No. 8209 of 2010 certain allegations were levelled in the rejoinder affidavit filed by the Himalayan Institute of Pollution Control and Social Economic Development Centre. At the hearing on 22nd February 2011, this Court directed that it would be open to the GNCTD to place the averments in the rejoinder affidavit before the Selection Committee for its views. Subsequently, a further affidavit was filed by the Petitioner on 25th February 2011 giving certain other details. These were also placed before the Screening Committee and an affidavit dated 3rd March 2011 was filed in which it was stated that the Selection-cum-Screening Committee again met on 1st March 2011. As regards the adverse report from the Mission Convergence, Delhi in respect of three NGOs, viz., Waruda, Indcare Trust and Bharat Ratan Bhim Rao Ambedkar Society the Committee directed that it should be verified from the concerned parties. Mr. Gonsalves further added that there was some communication gap between Mission Convergence and the Department of Women and Child Development, which was the administrative department as regards the supply of supplementary nutrition under the ICDS. Records relating to earlier work of supply of MDMs to the Municipal Corporation of Delhi (‘MCD’) schools were not furnished to the Department of Women and Child Development and that this communication gap was now being rectified.

22. The affidavit dated 9th March 2011 of the GNCTD referred to reports received from the MCD regarding two FIRs. One was lodged on 26th February 2004 (FIR No. 96 of 2004) regarding SSS. However, no proceedings were taken pursuant to the said

FIR. As regards the second instance of 4th February 2005 involving SSS it was noticed that the food tested by the four-member committee was found to be of a good standard and the children who had complained earlier did not show any symptoms of food poisoning but were kept in the hospital by the authorities only for observation. All the four children were discharged on 5th February 2005. Jan Chetna and Nav Prayas denied that they were sister concerns and stated that they were distinct and separate societies. They had not been blacklisted by any department. RWT had worked in the ICDS at Chandigarh. It had vast experience in developing SHGs for which it had received laudatory certificates. There were also some other new entrants to the ICDS. These entrants had experience in supplying MDMs in Delhi itself.

23. The Selection-cum-Screening Committee again met on 26th April 2011. It is stated that the Department of Women and Child Development had issued show cause notices to both SSS and RWT on 20th April 2011 in respect of the allegations made against them. Mr. Gonsalves also pointed out that as regards non-mentioning by the RRF of the earlier case pending against it appropriate action would likewise be taken. The GNCTD has also placed on record a further report dated 23rd May 2011 by the MCD stating that with regard to FIR No. 96 of 2004 against SSS, the Metropolitan Magistrate ('MM') was pleased to drop charges levelled under Section 284 IPC by the order dated 6th July 2009. The MM has kept the trial pending only on the ground of negligence under Section 336 IPC and its outcome is awaited. It is further pointed out by the MCD that SSS provided cooked meals under the MDM scheme to approximately three lakh children through three semi-automated kitchens established in Ranholla and their services were satisfactory. It is further pointed out that an inspection had been conducted on 25th May 2011 of the Food & Beverage Foundation Society as well as GSS. The office of the Food & Beverage Foundation Society was found locked and it appeared that the said office had not been opened since long. There was no display board or any other sign of the said organization or GSS. It is further stated that show cause notices had been issued on 27th May 2011 to the concerned NGOs for not giving the details of the complaints filed against them.

24. In light of the above explanation given by the GNCTD and the detailed documentation placed on record, this Court is unable to come to the conclusion that the selection of Respondent Nos. 2 to 5 for the award of contract was *per se* arbitrary or *mala fide*. Wherever the NGO concerned has either not given complete details

regarding the complaints made in the past against it, GNCTD appears to have taken corrective action.

25. No grounds have been made out to persuade this Court to grant any of the reliefs prayed for in these writ petitions. The writ petitions are dismissed, but in the circumstances, with no order as to costs.

S. MURALIDHAR, J.

11th July, 2011
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