

*** IN THE HIGH COURT OF DELHI AT NEW DELHI**

% Judgment delivered on: 09.07.2015

+ W.P.(C) 639/2015 and CM No. 1115/2015

M/S. GAURAV SECURITY SERVICE

..... Petitioner

versus

**DELHI TOURISM AND TRANSPORT DEVELOPMENT
CORPORATION LTD.**

..... Respondents

Advocates who appeared in this case:

For the Petitioner : Mr Saurabh Kirpal and Mr Nikhil Rohatgi

For the Respondent No. 1 : Mr S.B. Upadhyay, Sr Advocate with Mr Abhimanyu Garg and
Mr Kaustuv Pathak

For the Respondent No. 2 : Ms Manika Tripathy Pandey and Mr Ashutosh Kaushik

CORAM:

HON'BLE MR JUSTICE BADAR DURREZ AHMED

HON'BLE MR JUSTICE SANJEEV SACHDEVA

JUDGMENT

BADAR DURREZ AHMED, J (ORAL)

1. This writ petition pertains to the notice inviting tender for Security Services for Delhi Tourism and Transportation Development Corporation Limited which was issued on 10.12.2014. The petitioner which is a partnership firm participated in the said tender, however, the petitioner's bid was rejected primarily on two grounds. The first ground was that the partnership concern was not run by an Ex-Serviceman and the second ground

being that the petitioner firm did not have requisite experience of three years as also the petitioner firm did not have any recognition under Delhi Private Security Agency (Regulation) Rules, 2009 or any ISO Certification.

2. The learned counsel for the petitioner submitted that earlier the business of the petitioner firm was being run as a proprietorship concern. The proprietorship concern had the requisite experience but the partnership which was constituted in May, 2014 did not. He further submitted that the proprietorship concern was not being run by an Ex-Servicemen but the partnership concern comprised of two partners, one of whom was an Ex-serviceman. It was, therefore, contended that the petitioner's bid ought not to have been rejected as one of the partners was an Ex-Serviceman and the experience of the proprietorship concern ought to have been taken into account. However, insofar as recognition under the Delhi Private Security Agency (Regulation) Rules, 2009 is concerned, it was candidly admitted by the learned counsel for the petitioner that the partnership concern did not have any such recognition.

3. The learned counsel appearing on behalf of DTTDC drew our attention to Clause 2 of the NIT which prescribes the eligibility conditions. The said clause 2 reads as under:-

“2. Eligible Bidders:-

2.1 All Security agencies who are providing similar kind of services for at least last three consecutive years and having annual average turnover of Rs 2.70 crores (30% of the estimated value of the contract) during the last three financial years as per the books of accounts and being run by Ex-Servicemen/Ex-Para-Military men are eligible to apply.

2.2 The bidder should have the experience of completion of similar works in any of the Departments / Autonomous Institutions / Universities / Public Sector Undertakings of the Government of India or Government of NCT of Delhi or any other State Government or Public Sector Banks or Local Bodies / Municipalities or reputed private sector Companies / Institutions as follows:

- (a) Three similar completed works costing not less than the amount equal to 40% of the estimated cost; or
- (b) Two similar completed works costing not less than the amount equal to 50% of the estimated cost; or
- (c) One similar completed work costing not less than the amount equal to 80% of the estimated cost.

2.3 The agencies having employed 800 employees for the last three years are eligible to participate in this process.

2.4 The firms of Sole Proprietor / JV / Partnership / Consortium are eligible to participate in the tender process. JV / Partnership Firm / Consortium are permitted provided that each member / partner of the JV / Partnership / Consortium shall fulfil all the terms and conditions individually and collectively.

2.5 The agencies must be registered under Delhi Private Security Agency (Regulations) Rules, 2009.”

He specifically drew out attention to clauses 2.4 and 2.5. On going through the said clauses it is evident that a partnership concern is eligible to bid in the said tender provided each of the partners fulfills all the terms and conditions, individually and collectively. He submitted that though one of the partners was an Ex-Serviceman, the other one was not and, therefore, clause 2.1 read with this condition was not satisfied. Furthermore, clause 2.5 clearly stipulated that the agency must be registered under Delhi Private Security Agency (Regulation) Rules, 2009. It is clear that the petitioner firm is not registered under the said Rules. Therefore, it was contended by the learned counsel for the said respondent that the petitioner was ineligible and its bid was rightly rejected. We agree with the submission made by the learned counsel for the respondent that the petitioner did not satisfy clauses 2.1, 2.4 and 2.5 of the NIT.

4. Before parting with this case, we would like to point out that there might be some ambiguity in the reading of clause 2.1 and clause 2.4 with regard to the requirement that the agency must be run by Ex-Servicemen / Ex-Para-Military men, particularly, in case companies are permitted to

participate. The learned counsel for the respondent has assured this court that he shall ask the respondent to issue appropriate clarifications for future tenders. Since the petitioner has approached this court after participating in the NIT and after rejection of its bid, we have not examined the plea taken by the petitioner that the condition stipulated in clause 2.1 is arbitrary.

5. The writ petition is dismissed. There shall be no order as to costs.

BADAR DURREZ AHMED, J

JULY 09, 2015
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SANJEEV SACHDEVA, J