

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 334 OF 2017

P.K. HOSPITALITY SERVICES PVT.
LTD., THR. ITS AUT. REP. MR.
RAGHUNATH DEVADIGA.,

... Petitioner

Versus

AIRPORT AUTHORITY OF INDIA AND
ANR.,

... Respondents

Mr. N. Sardesai, Senior Advocate with Mr. Vibhav Rajiv
Amonkar, Advocate for the petitioner.

Mr. S. G. Desai, Senior Advocate with Mr. S. D. Padiyar, Mr.
Prilam P. Phadte and Mr. Sankalp Bhangui, Advocates for the
respondents.

Coram:- F. M. REIS &
NUTAN D. SARDESSAI, JJ.

Date:- 5th April, 2017

P.C.

Heard Mr. N. Sardesai, learned Senior Counsel appearing
for the petitioner and Mr. S. G. Desai, learned Senior Counsel
appearing for the respondents.

2. During the course of the hearing of the above petition, Mr.
S. G. Desai, learned Senior Counsel appearing for the
respondents has brought to our notice clause 6.1 of the subject
tender conditions to point out that in terms thereof, the Courts in
Delhi only have jurisdiction to examine any controversy with
regard to the tender process. Mr. N. Sardesai, learned Senior

Counsel appearing for the petitioner however points out that the jurisdiction of this Court under Article 226 of the Constitution of India cannot be taken away for judicial review as according to him unless the bid is submitted, the question of exercising any right in terms thereof would not at all arise. Mr. S. G. Desai, learned Senior Counsel appearing for the respondents has brought to our notice some observations in the judgment of the Division Bench of this Court reported in 2010(4) ALL MR 120 in the case of M/s. Bee Jay Contractors V/s Hindustan Petroleum Corporation Ltd. Mr. Sardesai, learned Senior Counsel however disputes the applicability of such observations to the facts of the present case.

3. Upon hearing the learned counsel for the parties, when asked why the above petition should not be filed in Delhi, it was pointed out by Mr. Sardesai, learned Senior Counsel appearing for the petitioner that considering the nature of the dispute the matter can be examined before the learned Delhi High Court without prejudice to the rights and contentions of the parties. In such circumstances, we find it appropriate to return the memo of the Writ petition along with the annexures to the petitioner to enable the petitioner to present the Writ Petition before the learned High Court at New Delhi in accordance with law. The Registry is directed accordingly in terms of the Rules.

4. At this stage, Mr. Sardesai, learned Senior Counsel appearing for the petitioner has submitted that the subject bid is expected to be opened during the course of the day after 3.00 p.m. There were some discussions as to whether the petitioner could be given an opportunity to submit their bid in terms thereof by protecting them with regard to their apprehension that their bid may be rejected on the ground that No Dues Certificate was not submitted by the petitioner in terms of the tender conditions. But however, the petitioner thereafter pointed out that considering the voluminous documents which are required to be attached to such tender bid, it would not be possible for them to submit their bid by 3.00 p.m. today. Mr. S. G. Desai, learned Senior Counsel appearing for the respondents states that RFQ only is expected to be opened today and not the financial bid. In such circumstances, we direct that any further action taken by the respondents on the subject bid shall be subject to further orders that may be passed by the learned High Court at New Delhi and the parties shall not claim any equities thereof. All contentions of both the parties on merits are left open.

5. The petition stands disposed of accordingly.

NUTAN D. SARDESSAI, J.

F. M. REIS, J.

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