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

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Judgment delivered on: 01.12.2017

+ W.P.(C) 5474/2017 & CM No. 22991/2017

UNIMEDITREK PVT LTD

..... Petitioner

versus

UNION OF INDIA & ANR

..... Respondents

Advocates who appeared in this case:

For the Appellant(s) : Mr. Sachin Datta, Sr. Adv. with Mr. Sonal Kumar Singh, Mr. Rajat Dasgupta and Ms. Ankita Singh, Advs.

For the Respondent(s) : Mr. Ajay Digpaul, CGSC with Ms. Madhuri Dhingra, Adv. for R-1, 2

CORAM:-

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

S. RAVINDRA BHAT, J. (OPEN COURT)

1. The grievance of the petitioner is that the rejection of its bid for supply of Automatic Tissue Processor to the pathology institutions on the basis of NIT (Notice Inviting Tender), issued on 16.02.2017, is arbitrary.

2. The petitioner is involved in manufacturing and selling of medical equipments. It responded to the tender in question and submitted its bid on 20.03.2017. The bidding process involved two stages i.e. consideration and evaluation of technical bid; and commercial finance price bid. The respondents sought clarification from the petitioner with regard to two

documents i.e. CE certificate and recently issued performance certificate from three Government hospitals or accredited private hospitals or laboratories. The petitioner complied and also attended the vendors' meet held on 19.06.2017. It is contended that when the technical evaluation compliance sheet was uploaded on 20.06.2017, the respondents decided that the petitioner's bid was not compliant for several reasons. Firstly, that the documents furnished did not satisfactorily explain whether it had fulfilled their eligibility criteria of having installed equipment, in at least three reputed Government hospitals or private accredited hospitals or laboratories after sale services. The rationale given was that the equipment installed in the Kailash Hospital and histopathology intensive centre and the equipment at Safdarjung Hospital is only two months old and lacking any satisfactory performance certificate. So far as the past performance of the equipment installed was concerned, the respondents felt that sufficient satisfactory performance was not indicated from the tender documents i.e. with respect to both the institutions i.e. Kailash Hospital and from the Action Medical Institute or Action Cancer Hospital or the Kailash Hospital.

3. Complaining that the rejection of subject bid was arbitrary, the petitioner approached this Court.

4. The respondents in their affidavit dated 21.08.2017 states as follows:-

“6. As mentioned above, the firm M/s Unimeditrik Pvt. Ltd. represented against the TEC report of the instant case to the Office of DGAFMS vide their letter dated 20.06.2017 and the file was forwarded to Sr Conslt (Med) on 27.06.2017 for his valuable opinion on the issues raised by the representing firm. Vide covering letter No. Path/TEC/2017 dated

13.07.2017; the Tech Expert forwarded the reconciled TEC Report after reviewing the same vide which the Tech Expert has declared all the 03 firms acceptable in the TEC.”

5. Pursuant to the above development, the Court, after hearing the counsel on 14.11.2017, had directed the respondent to open the petitioner's price bid and indicate in a sealed cover the outcome of the same. As a result, the respondent complied with that direction and opened the price bid. It appears that the petitioner's quotation is competitive. Learned counsel submits, in these circumstances, and having regard to its previous stand indicated in the affidavit dated 21.08.2017, the petitioner's bid would be processed further, given the status indicated in the price bid analysis carried out pursuant to the orders of this Court.

6. In view of the above, direction is issued to the respondent to complete the process and issue consequential letter/offer to the petitioner in accordance with the tender terms within four weeks.

7. The writ petition is allowed in the above terms.

8. Order *Dasti* under signatures of the Court Master.

**S. RAVINDRA BHAT
(JUDGE)**

**SANJEEV SACHDEVA
(JUDGE)**

**DECEMBER 01, 2017
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