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

+ **W.P.(C) 8149/2015 & CM 16959/2015**

KAKE FINVEST PRIVATE LIMITED

..... Petitioner

Through Mr Rajesh Gupta, Mr Harpreet Singh,
Advocates.

versus

**DELHI METRO RAIL CORPORATION
LIMITED**

..... Respondent

Through Mr R.V. Sinha, Advocate and Mr A.S.
Singh, Advocate with Mr Sanjay Kumar, AR.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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03.08.2017

1. The petitioner has filed the present petition, *inter alia*, impugning a communication dated 12.08.2015 whereby the petitioner was debarred from participating in any tenders with Delhi Metro Rail Corporation Limited (DMRC) for a period of two years and further the earnest money deposited (EMD) was also forfeited. The aforesaid punitive measure was imposed on the petitioner on account of the petitioner withdrawing his bid offer pursuant to the notice inviting tender (NIT) issued by DMRC for inviting bids for managing Parking Lots, in April 2015.

2. One of the conditions under the NIT was that that in the event a bidder withdrew his offer after submitting the tender, the bidder would be debarred from participating in any contracts of DMRC for a period of two

years or as decided by the competent authority. However, the said punitive measure could be imposed only if the bid was withdrawn without providing sufficient reasons. It is the petitioner's case that the petitioner had withdrawn the bid because there was a change in the traffic plan, which made it onerous for vehicle owners to park their vehicles in the Parking Lot bid for by the petitioner. The same is disputed by the DMRC.

3. Learned counsel appearing for DMRC has also pointed out that no such reason was provided by the petitioner in its letter dated 01.06.2015 while withdrawing his bid.

4. Without going into the question whether the action taken by DMRC is in conformity with the NIT or is arbitrary or unreasonable, this Court is of the view that the question has now become academic since the period of two years is almost over and thus no further purpose would be served in keeping the present petition on board.

5. It is seen that the petitioner has also sought refund of EMD which had been forfeited by DMRC. This Court is not persuaded to interfere with such forfeiture as the tender conditions (NIT) were unambiguous and withdrawal of bid would entitle DMRC to forfeit the EMD. The learned counsel for the petitioner also does not press this point.

6. In view of the above, the petition and the pending application are disposed of.

VIBHU BAKHRU, J

AUGUST 03, 2017/pkv