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

+ W.P.(C) 9333/2018 & CM Appln. No.36109/2018

GINEE INFRATECH (INDIA) PVT. LTD. THROUGH
ITS DIRECTOR Petitioner

Through: Mr. Girindra Kumar Pathak,
Advocate with Mr. Alok Singh.

versus

UNION OF INDIA AND ORS. Respondents

Through: Mr. Dilbag Singh, Sr. Panel Counsel
for UOI.

Mr. Gautam Narayan, ASC with Ms.
Mahamaya Chatterjee, Advocate for
GNCTD with Mr. Ashok Kumar,
ASI, 1st BN, DAP.

CORAM:
HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER
% **06.09.2018**

1. The petitioner has filed the present petition, *inter alia*, impugning a communication dated 31.08.2018 whereby the petitioner has been called upon to remove the Mobile Toilets (hereafter "MTVs") provided by the petitioner.
2. On 29.12.2016, respondent no.2 (Deputy Commissioner of Police) had invited tenders for hiring of 19 number of MTVs for use of Forces arriving in Delhi during Republic Day 2017. The aforesaid tender indicated the requirement of MTVs as follows:

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S.No.	Date from requirement of Mobile Toilets upto	Days	No. Of Mobile Toilets required	Locations
2.	07.01.17 to 27.01.2017	21 days	12 Nos.	Sector – 26 Rohini
3.	14.01.17 to 27.01.2017	14 days	02 Nos.	DSIDC Bhorgarh, P.S. Narela
			02 Nos.	Different locations in Delhi
4.	19.01.17 to 27.01.17	09 days	03	Different locations in Delhi
Total			19	

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3. The petitioner’s bid pursuant to the aforesaid invitation was accepted and the petitioner provided the MTVs as required. Admittedly, the petitioner has continued to provide MTVs even after expiry of the period as indicated in the aforesaid notice and the petitioner’s MTVs have been hired by respondent no.2 from time to time.

4. On 31.08.2018, respondent no.2 had sent a letter calling upon the petitioner to forthwith remove the MTVs provided by the petitioner. A plain reading of the said communication indicates that the said decision was taken as respondent no.2 had found that MTVs are available in the market for hiring on a charge of ₹1400/- per MTV instead of ₹2,100/- as being charged by the petitioner.

5. It is apparent from the above that there is no contract with the petitioner, which entitles the petitioner to continue to provide services to

respondent no.2 or obliges to avail services from the petitioner. Clearly if respondent no.2 is able to source MTVs at a lower rate, respondent no.2 cannot be precluded from doing so.

6. In this view, this Court finds no infirmity with the impugned communication directing the petitioner to remove MTVs.

7. Having stated above, there is considerable merit in the petitioner's contention that the petitioner should be given a fair opportunity to compete with other service providers by offering competitive rates.

8. Mr. Gautam Narayan, learned counsel appearing for respondent no.2 states that he has instructions that respondent no.2 would be inviting tenders for hiring MTVs after approval from the Competent Authority.

9. In the aforesaid view, the present petition is disposed of by directing respondent no.2 to also afford the petitioner an opportunity to reduce its charges to compete with other offerers for hiring of MTVs till the tenders are invited. It is clarified that this Court is not interfering with the impugned communication. Respondent no.2 shall consider the question of hiring of MTVs on the merits of the offers available with it including the price quoted by other service providers.

10. No further orders are required to be passed in this petition and the same is disposed of. The pending application is also disposed of.

VIBHU BAKHRU, J

SEPTEMBER 06, 2018

dr