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

+ **W.P.(C) 206/2019 & CM Appl. 980-891/2019**

BINDRA TOURS N TRAVEL

..... Petitioner

Through: Mr.Rakesh Tikku, Sr.Advocate with
Mr.Naunidh Arora, Mr.Sumit Batra,
Mr.Shrey Chathly & Mr.Nikhil
Gupta, Advocates

versus

PRASAR BHARATI & ORS

..... Respondents

Through: Mr.Rajeev Sharma, Mr.Rajat Krishna
& Mr.Saket Chandra, Advocates

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

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14.01.2019

1. The petitioner's grievance is that the Notice Inviting Tender [NIT] for the transportation contract, floated by Prasar Bharti [respondents herein] was arbitrarily rejected, and the tender cancelled.
2. The NIT which was issued on 14th August, 2018, spelled out various essential conditions. The tender conditions also stipulated – by Clause B, a number of mandatory documents, which were to be supplied by each bidder. The petitioner contended that it complied with these and given these circumstances, the cancellation of the bid was arbitrary and not founded on any reasons.

3. This Court had issued notice to Prasar Bharti; today, the record has been produced. The record contains Prasar Bharti's decision to cancel the entire process. The authority felt compelled to take this step because the five tenderers, who had bid for the contract, did not furnish certain documents. The entire argument of the petitioner is premised upon its having fulfilled the condition of furnishing of mandatory documents. This Court, however, notices that Annexure-3, which is part of the tender documents, required – by column 10, each bidder to submit the “latest challans” of compliance with the provisions of the Employees Provident Fund Act, 1952 and Employees State Insurance Act [ESI] payments as proof. None of the bidders complied with it and furnished the copies of the latest challans. Prasar Bharti straight away proceeded to query each bidder and elicit copies of such challans. It sought confirmation with its legal counsel with respect to the regularity of such procedure. The counsel informed Prasar Bharti that if the bidders had indeed not complied with the requirement, the deficiency could not be cured by procuring the documents later; as a consequence, the respondents decided and proceeded to cancel the tender.

4. This Court is of the opinion that the rationale for tender cancellation, is founded on sound reasons. If the petitioner's arguments are to be accepted, the tendering authorities would be under an obligation to elicit from those who had not in the first instance complied with the requirement. It cannot be contended that the need to furnish the proof that indeed the requisite contributions were made to the statutory authorities was optional and could be given to the authority at a later stage. Prasar Bharti's duty is, and continues to be, to assess the tenders/bids, as supplied to it with the

documents attached at that point of time. If it decides to overlook a deficiency, it is obliged to follow the same procedure i.e. issue a corrigendum or alternatively to cancel the entire process. That in this case, Prasar Bharti chose the latter option, does not render its decision arbitrary.

5. The writ petition is accordingly dismissed as unmerited.

S. RAVINDRA BHAT, J

PRATEEK JALAN, J

JANUARY 14, 2019

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