$~19

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

Date of Decision: 1st August, 2019

\+ **W.P.(C) 8324/2019**

MR. MOTI LAL DAGA AND ANR. ..... Petitioners

Through: Ms. Vineeta Bansal and Mr. Nitin Kumar Jain, Advocates.

versus

GOVT. OF NCT OF DELHI AND ORS. ..... Respondents

Through: Mr. Gautam Narayan, ASC for GNCTD with Ms. Shivani Vij and Ms Dacchita Shahi, Advocates.

CORAM:
HON'BLE MR. JUSTICE G.S.SISTANI
HON'BLE MS. JUSTICE JYOTI SINGH

JUDGMENT

%

G.S. SISTANI, J. (ORAL)

C.M. Appl. No. 34475/2019 (for exemption)

1. Exemption allowed, subject to all just exceptions.

C.M. stands disposed of.

W.P.(C) 8324/2019 and C.M. Appl. No. 34474/2019 (for stay)

2. An e-tender was invited for procurement of costumes and other related items for National as well as State level Independence Day Celebrations,

2019 and Republic Day Celebrations, 2020 under two bid system from reputed agencies registered with GST Department, Government of National Capital Territory of Delhi (GNCTD) or any other State Government either in their own capacity or through a joint venture/consortium/partnership having capacity to supply costumes and other related items to the students of the school/stadiums of Department of Education, Delhi, for a period of one year. The last date of submission of the e-tender was 22.7.2019 and closing time was 2:00 p.m. The technical bids were opened on the same date i.e. 22.7.2019 at 3:30 p.m. Respondent nos. 3, 4 and 5 were successful and tenders have been awarded to all the three bidders. The complaint of the petitioner in this writ petition pertains to awarding the tenders to respondent nos. 3, 4 and 5.

3. Learned counsel for the petitioner submits that respondent no. 3 has not complied with Condition 2.2 of the tender document as no satisfactory certification has been provided to show that the said bidder is in existence for the past five years. She further submits that respondent no. 4 has not complied with Condition 2.1 as the certificate of three consecutive years showing annual average turnover of Rs.27,00,000/- has not been provided. With regard to respondent no. 5 the grievance is that Condition 8.7.1 has not been complied with as the earnest money deposited of Rs.4,50,000/- has not been made in favour of D.D.O. (Phy. Edn), GNCTD. In this backdrop learned counsel for the petitioner submits that the tenders awarded to respondent nos. 3, 4 and 5 may be quashed.

4. Mr. Gautam Narayan, learned counsel, who enters appearance for the respondents on advance copy, has produced the file pertaining to the tenders.

5. As far as the complaint with regard to respondent no. 3 is concerned, it is pointed out that an MSME Certificate and a Bank Certificate, which shows commencement of operation from March, 2014 have been submitted by the respondent no. 3, thus the allegations made are baseless and unfounded. We have examined the record, which has been produced before us and which shows that the two certificates were indeed filed by respondent no. 3 and the certificates clearly show that respondent No. 3 had commenced the work in March 2014. The objection thus raised with regard to respondent no. 3 by the petitioner is misplaced.

6. As far as the objection with respect to respondent no. 4 is concerned, Mr. Gautam Narayan points out that the year ending is 30th September, 2019. Accordingly, respondent no. 4 had submitted a certificate showing annual average turnover of Rs.27,00,000/- for the Financial Years 2015-16, 2016-17 and 2017-18. It is thus pointed out that the objection is without any force.

7. With regard to the third objection pertaining to respondent no.5, it is submitted that a fixed deposit had been prepared in the name of D.D.O., Physical Education, however, the word GNCTD is missing and thus there is no infirmity and the fixed deposit is encashable.

8. We have heard learned counsels for the parties and have examined the original record.

9. We find that the objections raised by the petitioner pertaining to respondent nos. 3, 4 and 5 are completely misplaced. The fixed deposit has been made in the name of D.D.O., Physical Education, which is an encashable document and there is thus no illegality in submission of this

document by respondent no. 5. Respondent no. 4 has filed the original certificates of Chartered Accountant pertaining to the last three financial years as for the present year, the deadline is 30.09.2019. Respondent no. 3 has not only produced MSME Certificate, but also bank certificate evidencing that it has been in business since the year 2014, which is as per the requirement of the NIT. Resultantly, we find that the present writ petition is completely misplaced. The petitioners have failed to establish that the action of the respondents is either *mala fide* or illegal.

10. The writ petition along with the pending application is dismissed.

G.S.SISTANI, J

JYOTI SINGH, J

AUGUST 01, 2019

AK