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

Date of decision: 26/09/2019

+ W.P.(C) No.10256/2019
SEEMA PANDEY & ANR.

..... Petitioners

Through: Mr. Akshat Bajpai, Advocate with
Ms. Kanika Sondhi, Advocate.

versus

MINISTRY OF RAILWAYS & ORS.

..... Respondents

Through: Mr. Jagjeet Singh, Advocate with Mr.
Preet Singh, Advocate.

CORAM:

HON'BLE MR. JUSTICE G.S. SISTANI

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

J U D G M E N T

G.S.SISTANI, J. (ORAL)

Notice to show-cause as to why the petition be not admitted.

Mr. Jagjit Singh, learned Standing Counsel for the Railways accepts notice.

With the consent of the parties, we set down the petition for final hearing and disposal.

The petitioners seek a direction to prohibit the respondents from awarding the tenders for allotment of Catering stalls (General Minor Units) reserved for women. The Tender Notice bearing No.23AC/SBD/GMU A-1/2018 was floated by respondents Nos.2 and 3 under the supervision of respondent No.1 on 13.08.2018. Another Tender Notice bearing No.23AC/1101/R.Price/PGW,

JRC&FZR/2018 was floated by respondents Nos.2 and 4 under the supervision of respondent No.1 on 13.02.2019.

Petitioners submitted their bid for award of licence for “Provision of Catering Services of General Minor Unit (GMU) No.5 in the Category ladies at Pathankot Cantt. Railway Station for Catering Stall” on 16.03.2019, which was rejected. The petitioners thereupon made a representation to respondents Nos.2 and 3 regarding their disqualification from the bidding process and requested that their price bid be considered.

It is the common case of the parties that the tender pertained to award of food catering stalls to be run by women. According to the respondents the reasons for rejection in the case of the petitioners have been mentioned in the Minutes of Tender Committee, which are reproduced below:-

S. No.6	<i>Additional Mandatory requirements; Annexure A/2 of Chapter-1 of Section-B including Permanent Account Number, GSTIN Registration, FSSAI etc. (Section A Chapter 3, item 3.6, SN 444)</i>	<i>The bidder has furnished mandatory information for eligibility of the bid in Annexure-A-2 (SN 213-214) of PAN, GSTIN Registration and FSSAI are as under: 1. Self attested photocopy of PAN Card, having no.AQXPP3551G issued in the name of Seema Pandey (SN-165).</i>	<i>Not Acceptable</i>
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		2. Self attested photocopy of GSTIN in the Legal Name of M/s Express Food Services (SN 133-142), not in the name of Seema Pandey (Bidder), who has applied as individual. The PAN Card & GSTIN Number are not matching with each other. 3. Self attested copies of Food License Certificate placed at S. No.05/1-59 in favour of M/s Express Food Services and Shiva Kant Pandey (Partner of M/s Express Food Services) not in the name of Seema Pandey (Bidder), who has applied as individual Hence, the bidder has not submitted the GSTIN & Food License in her individual name and have not complied with the condition of the contract. Hence, the bidder is found to have not complied with the	
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		<i>condition</i>	
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The reasons for rejection of bid of petitioner No.2 are also reproduced below:-

7.	<i>Additional Mandatory requirements; Annexure A/2 of Chapter-1 of Section-B including Permanent Account Number, GSTIN Registration, FSSAI etc. (Section A Chapter 3, item 3.6, SN 453)</i>	<i>The bidder has furnished mandatory information for eligibility of the bid in Annexure-A-2 (SN 214-215) of PAN, GSTIN Registration and FSSAI are as under: 1. Self attested photocopy of PAN Card, having no.ARBPP0023E issued in the name of Nisha Pandey (SN-166). 2. Self attested photocopy of GSTIN in the Legal Name of M/s Express Food Services (SN 134-143). 3. Self attested copies of Food License Certificate placed at S. No.05-06 in favour of M/s Express Food Services and Shiva Kant Pandey (Partner of M/s Express Food</i>	<i>Not Acceptable</i>
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		<i>Services).</i> <i>Hence, the bidder has not submitted the GSTIN & Food License in her individual name and have not complied with the condition of the contract.</i> <i>Hence, the bidder is found to have not complied with the condition.</i>	
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Mr. Jagjeet Singh, learned counsel for the respondents submits that the reasons for rejection are that while the petitioners have applied in their personal capacity in the women's category, they have not furnished GSTIN and Food License Certificate in their own names but in the names of a certain partnership firm/other entities.

Learned counsel for the petitioners however submits that these documents have been submitted of a partnership firm wherein both petitioners are active partners.

The only question for consideration is as to whether the documents provided by the petitioners would satisfy the tender conditions. The answer to this is in the negative since, admittedly according to the tender conditions, GSTIN & Food Licence Certificate was to be provided by the bidders in a tender meant for women ; and in this case, the documents have been provided of a partnership firm whereas the bid was made in the petitioners' individual capacity as women.

In the above circumstances, we are of the view that the entire aim, purpose and object of providing catering stalls exclusively to be run by women would be completely lost in case contracts are awarded to partnership firms where women are only one of the partners. Even otherwise, the tender conditions provide for furnishing of documents as we have mentioned above and it would appear that the petitioners either did not possess such documents in their own names or did not submit the same alongwith the bid.

That apart, while examining the case by way of judicial review the court must only examine the process of awarding tender and as to whether the action of the respondent is illegal, *mala fide* or unreasonable; and not the decision itself. Reference may be made in this regard to the decision in the case of *New Horizons Limited and Another vs. Union of India and Others* (1995) 1 SCC 478.

For the reasons stated hereinabove, we find no infirmity in the action of the respondents, which therefore requires no interference under Article 226 of the Consitution of India. We accordingly find no merit in the petition, which is therefore dismissed.

C.M. No.42285/2019 (stay)

Since the writ petition is disposed of, this application is also disposed of.

G.S.SISTANI, J

ANUP JAIRAM BHAMBHANI, J

SEPTEMBER 26, 2019/Ne