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

+ **W.P.(C) 4573/2018 & CM APPL. 17720/2018, 42841/2018**

JENENDRA MEDICOS PVT. LTD

THROUGH DIRECTOR VINOD

KUMAR JAIN

..... Petitioner

Through Mr Parmod Kumar Bhardwaj,
Advocate.

versus

UNION OF INDIA AND ORS.

..... Respondents

Through Mrs Bharathi Raju, CGSC for
R1 to R3.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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01.04.2019

1. The petitioner has filed the present petition, *inter alia*, praying for the issuance of a writ, order or direction to respondent nos. 1, 2 & 3 to abide by the terms and conditions, stipulated in the tender notice (F.No.55-01/2016-17/CGHS/MSD/ALC) dated 25.01.2018 (hereafter 'the tender notice'). The petitioner further prays for the issuance of a writ, order or direction to the respondent nos. 1, 2 & 3, not to proceed further with the empanelment of the chemist shops without first examining the eligibility of the bidders including respondent no. 4, as per Section 1, part 1 of the tender notice.

2. The petitioner is a company running a chemist shop, situated at P-37, Shop No. 2, Pandav Nagar, Mayur Vihar, Phase I, Delhi-110092 and

having its registered office at B- 31 A, Gali No. 8, Shashi Garden, Mayur Vihar Phase I, Pocket- I, Delhi- 110091.

3. Respondent No. 3 (Additional Director, CGHS, Medical Store Depot) empanels authorized local chemists for wellness centres to provide indented medicines to its beneficiaries. The chemists are empanelled through e-tendering on the Central Public Procurement (CPP) Portal of NIC. In pursuance of the same, respondent no. 3 issued the tender notice wherein it invited online bids from reputed local chemists with shops allocated in Delhi/ NCR for the supply of allopathic medicines to 99 wellness centres, under the Central Government Health Scheme (CGHS) of the Ministry of Health and Welfare, Government of India by floating an open tender.

4. In response to the tender notice, the petitioner filed an online bid for Mayur Vihar Phase – I (D-77), Indirapuram Vaishali (D-97), Chandni Chowk (D-08) and Yamuna Vihar (D- 84) wellness centres.

5. Respondent No. 3 uploaded all the bids, along with the accompanying documents on its CPP portal.

6. Respondent no. 3 proceeded with the inspection of the premises of respondent no. 4 (M/S Gupta Bros), who is apparently the successful bidder.

7. While going through the bids, the petitioner claims to have found major irregularities in the bid documents submitted by respondent No. 4. The petitioner, vide letter no. JM/3-2018/06 dated 5.03.2018, sought to

bring to the abovementioned irregularities to the notice of respondent No. 3. However, no response was received by the petitioner for the same.

8. The petitioner on receiving no response, sent a legal notice dated 09.04.2018 to respondent no. 3, through its legal counsel. However, no response was received by the petitioner to the same as well. Thereafter, the petitioner filed the present petition before this Court.

9. Respondent Nos. 1 and 3 state in the counter affidavit that in case of the on-going e-tender, the “Technical Evaluation Report” was uploaded on 28.09.2018, after the completion of both stages of technical evaluation. This was done after completion of evaluation of bid documents of 49 participating bidders and inspection of 39 “provisionally qualified” bidder premises.

10. This Court had pointedly asked the learned counsel appearing for the petitioner, as to which specific provision of the tender documents had been violated by respondent no.1 to 3. However, the learned counsel was unable to point out any provision of the tender documents, which has not been followed by respondent nos. 1 to 3. He had limited his arguments to assailing the choice of respondent no.4 as a successful bidder.

11. It is apparent from the above that the petitioner is, essentially, aggrieved by respondent no.4 being selected as a successful bidder. According to the petitioner, respondent no.4 ought to be disqualified for essentially two reasons. First, that the identity of respondent no.4 is in doubt since the firm is referred to as Gupta Bros, however, the GST registration is in the name of Gupta Bros Chemist. Second, that the

demand draft furnished by respondent no.4 is not from the account, which is specified in the bid documents.

12. None of the aforesaid contentions are merited. Clearly, there is no doubt as to the identity of respondent no.4 merely for the reason that the GST registration is in the name of Gupta Bros Chemist, instead of Gupta Bros. Even this issue does not survive, as it is clarified by the learned counsel for respondents 1 to 3 that respondent no.4 has furnished the rectified GST registration in the name of Gupta Bros.

13. The contention that the demand draft furnished by the petitioner is not from the bank account as mentioned in the bid documents is of no relevance. There was no restriction imposed by the respondent nos 1 to 3 that the demand draft be made from the same bank account, as mentioned in the bid documents. Thus, respondent no.4 was free to obtain the bank drafts from any source. The contention that the same reflects a *benami* transaction is bereft of any merit.

14. In view of the above, the present petition is unmerited and is, accordingly, dismissed. The pending applications stand disposed of.

VIBHU BAKHRU, J

APRIL 01, 2019

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