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IN THE HIGH COURT OF DELHI AT NEW DELHI

W.P.(C) 2504/2020

M/S CHOICE INDIA

..... Petitioner

Through: Mr.Ankit Gupta, Advocate

versus

UNION OF INDIA AND ORS.

..... Respondents

Through: Ms.Maninder Acharya, ASG with
Mr.Vikram Jetly, CGSC for UOI, Mr.
Viplav Acharya and Ms.Shefali Jaiswal,
Advocates

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

ORDER

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15.05.2020

This hearing has been held by video conferencing.

REVIEW PET. 100/2020

1. The present review application has been filed by the petitioner seeking review of the order dated 11.03.2020 passed by this Court.
2. This Court, by its order dated 11.03.2020, had disposed of the Writ Petition as being premature for the reason that the respondents were in the process of finalizing the tender process and were yet to take a final decision thereon.
3. The present review application has been premised on the allegation that the respondents have still not finalized the tender proceedings. The relevant averment of the petitioner in the present review application is reproduced hereinbelow:

“4. That as per the knowledge and record of the Petitioner Firm, the Respondent failed to finalize the tender proceeding giving sufficient cause of apprehension to the Petitioner Firm that the Respondent will not finalize the tender proceedings in all tenders or so only with the malafide intention to retender all the tender ids. The details of expiry of validity of all tenders for acceptance are given below:-

i. Tender id: 2019_MES_309954_1

Last date of submission of the tender: 18.01.2020

Date of Expiry of validity of tender for acceptance: 18.03.2020

ii. Tender id: 2019_MES_309944_1

Last date of submission of the tender: 18.01.2020

Date of Expiry of validity of tender for acceptance: 18.03.2020

iii. Tender id: 2020_MES_311933_1

Last date of submission of the tender: 25.01.2020

Date of Expiry of validity of tender for acceptance: 25.03.2020

iv. Tender id: 2020_MES_312297_1

Last date of submission of the tender: 27.01.2020

Date of Expiry of validity of tender for acceptance: 27.03.2020

v. Tender id: 2020_MES_312824_1

Last date of submission of the tender: 29.01.2020

Date of Expiry of validity of tender for acceptance: 29.03.2020

vi. Tender id: 2020_MES_312838_1

Last date of submission of the tender: 29.01.2020

Date of Expiry of validity of tender for acceptance: 29.03.2020

vii. Tender id: 2020_MES_313342_1

Last date of submission of the tender: 31.01.2020

Date of Expiry of validity of tender for acceptance: 31.03.2020.”

4. The present review application *inter-alia* makes the following prayer:

“ii) issue writ of mandamus, directions or order as prayed in the main petition directing the Respondents to finalize the tender proceedings of all seven tenders within a week.”

5. The learned ASG, who appears on an advance notice, submits that the tenders in question were cancelled on 19.03.2020 due to certain ambiguities found therein. In fact, the respondents have, after removing such ambiguities in the terms and conditions, invited fresh tenders on 29.04.2020. She submits that if the petitioner is aggrieved of the decision to cancel the tenders, the present application would not be an appropriate remedy for the same.

6. On the other hand, the learned counsel for the petitioner submits that the cancellation of the tender by the respondents is *mala fide*. He submits that the quotation submitted by the petitioner for other tenders having similar terms and conditions, has been accepted by MES, Garrison Engineer (I) R&D.

7. The petitioner has also filed the written arguments to contend that the respondents can apply the terms of the modified/fresh tender to the tender submitted by the petitioner, thereby validating the earlier tender. The learned counsel for the petitioner submits that in case the respondents were to receive quotations which are equivalent to those submitted by the petitioner for the tenders that have been cancelled, the petitioner must be granted preference for grant of such tenders/ contract.

8. As noted in the order dated 11.03.2020, the petitioner had filed the petition alleging delay in finalization of the tender process by the respondents. The tender process has now been finalized by the respondents *albeit* by cancelling the tenders. The remedy of the petitioner, if at all, lies in challenging the decision of the respondents to cancel the tender, which cannot be made the subject matter of the present petition. As far as the prayer seeking direction to the respondents to give preference to the petitioner is concerned, I find no merit in the same. No such

direction can be passed by the Court in exercise of its powers under Article 226 of the Constitution of India.

9. In view of the above, I find no merit in the present review application. The same is dismissed.

10. There shall be no order as to costs.

11. The order shall be uploaded on the website and shall also be provided to the learned counsels on the e-mail address provided.

NAVIN CHAWLA, J

MAY 15, 2020/Arya/sd