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

+ W.P. (C) 3740/2020

M/S CHOICE INDIA

..... Petitioner

Through: Mr. Chander Mani Grover, Advocate

versus

UNION OF INDIA

..... Respondent

Through: Mr. Vikram Jetly, Advocate with
Major Aloukik V Sutar, Garrison Engineer
(Utility), Water Supply Division.

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER

% **25.06.2020**

HEARD THROUGH VIDEO CONFERENCING

CM. 13412/2020 (exemption)

Allowed, subject to all just exceptions.

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1. The instant writ petition prays for a writ of Mandamus to quash/set aside Clause 24.3 of the tender and item rate contract for works by measurements required in the execution, operation and maintenance of water supply installation at Kabul Line New Kabul Line, Sanyat Line, Tigris Road and Sumran Line Pump Houses in the area of age (U) water supply Delhi Cantt. The petitioner is an enlisted contractor for executing the work of operations and water supply installation in different places at Delhi Cantt.

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2. The respondent invited seven tenders between December 2019, and January 2020 for work of operation and manning/maintenance of water supply installation at different places in Delhi. Though the petitioner claims that it was the lowest bidder, it was not awarded the contract. Aggrieved thereby, the petitioner approached this court by filing W.P. (C) No. 2504/2020 praying *inter alia* for issuing directions to the respondents to award the work of Manning and Operations of water supply installation in different places at Delhi Cantt. notified under seven tenders on the ground that he was L-1. In the order dated 11.03.2020, passed by the learned Single Judge, the submission made by learned counsel for the respondents was recorded to the effect that the tender process had not been finalised and the petitioner did not have any enforceable right, the petition was premature. As a result, the said petition was dismissed as premature while granting liberty to the petitioner to file a fresh petition if aggrieved by the final decision by the respondents.

3. Thereafter, the petitioner filed a petition for review of the order dated 11.03.2020 before the learned Single Judge (Review Petition No. 100/2020). In the said application, the petitioner referred to subsequent developments that had taken place. Counsel for the respondent informed the court that tenders in question has been cancelled on 19.03.2020 for account of certain ambiguity and the respondent was taking steps and had invited fresh tenders. It was stated by the learned ASG appearing for the respondent that after removing ambiguities, fresh tenders were invited on 29.04.2020 and if the petitioner is aggrieved by the decision to cancel the tenders, then the review application would not be an appropriate remedy for the same. In view of the

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submission made above, the review application was dismissed by the learned Single Judge.

4. Now, the petitioner has filed the present petition praying *inter alia* that the condition contained in para 24.4 in Schedule A forming part of the General Conditions of Contract issued by the respondents, i.e, Military Engineering Services, is liable to be quashed on the ground that it has introduced a new basis for evaluating the bidders which is impermissible.

5. Mr. Jetly states on instructions from Major Aloukik V Sutar, Garrison Engineer (Utility) that the tenders floated on 29.04.2020, were subsequently cancelled on 05.06.2020. As on date, no fresh tender has been floated by the respondents for operation and maintenance of water supply installation at Kabul Line New Kabul Line, Sanyat Line, Tigris Road and Sumran Line Pump Houses in the area of AGE (U) water supply Delhi Cantt. and therefore, the present petition is without any cause of action.

6. In view of the submission made by the learned counsel for the respondent, the present petition is dismissed in *limine* as devoid of cause of action.

HIMA KOHLI, J

SUBRAMONIUM PRASAD, J

JUNE 25, 2020

hsk/rkb