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

+ WP(C) 3777/2020

VAAAN INFRA PVT. LTD. Petitioner
Through Mr. Ramesh Kumar, Advocate.

versus

NATIONAL HIGHWAYS AUTHORITY OF INDIA & ORS.

..... Respondents
Through Ms. Maninder Acharya, ASG with
Ms. Madhu Sweta and Ms. Shivangi Khanna,
Advocates.

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER

% 29.06.2020

HEARD THROUGH VIDEO CONFERENCING.

C.M. No.13516-17/2020 (exemption)

Allowed, subject to all just exceptions.

WP(C) 3777/2020 & C.M. No. 13515/2020 (stay)

1. The present petition has been filed by the petitioner challenging Clause 2.4 contained in the Request for Proposal (RFP) issued by the respondent No.1/National Highways Authority of India (NHAI) on the ground that the same is arbitrary and discriminatory *qua* it and other similarly placed agencies. Further, the petitioner seeks a writ of mandamus for directing the respondent No.1/NHAI to cancel the acceptance of the

technical bids of the subject tender submitted by the respondents No.2 to 4 who have qualified therein. The petitioner also seeks a direction that the respondent No.1/NHAI be restrained from accepting the financial bids of any of the respondents No.2 to 4.

2. At the outset, we have enquired from learned counsel for the petitioner to indicate the date when the RFP had been floated by the respondent No.1/NHAI and what steps did the petitioner take to seek legal recourse if it was aggrieved by Clause 2.4 of the RPF. Mr. Ramesh, learned counsel for the petitioner states that the same was floated on 9.3.2020 and subsequently, respondent No.1/NHAI had issued a Corrigendum dated 7.5.2020, extending the due date of submission of the bid from 8.5.2020 to 15.5.2020.

3. Learned counsel for the petitioner seeks to explain that the petitioner had submitted representations dated 11.5.2020 and 22.5.2020 to the respondent No.1/NHAI raising a grievance in respect of Clause 2.4 of the RFP, but did not get any reply. Thereafter, the respondent No.1/NHAI had issued another Corrigendum, extending the last date for the submission of the bids to 11.6.2020. Learned counsel submits that the petitioner had a meeting fixed with an officer of the respondent No.1/NHAI on the issue raised in the present petition, which never took place. Hence, the present petition.

4. Ms. Acharya, learned ASG, who appears for the respondent No.1/NHAI, submits that the petitioner did not participate in the RFP by submitting a bid and the technical bids were opened on 12.6.2020. She further states that the bidding process has reached the second stage and the financial bids were opened on 26.6.2020, though the result has not been

declared yet as an advanced copy of the present writ petition has been served on the respondent No.1/NHAI. She denies that any officer of the respondent No.1/NHAI had fixed a meeting with the petitioner, as has been averred in the writ petition.

5. We are of the opinion that when the petitioner did not take any steps for over three months from the date the RFP was announced, to assail the terms and conditions of the RFP, it cannot be permitted to approach the Court at this belated stage to challenge any of the clauses in the RFP. The last date for submitting the bid expired on 11.6.2020 whereas, the present petition has been filed on 24.6.2020. It is too late in the day for the petitioner to approach the court against any of the terms imposed in the RFP more so, when both, the technical bids as also the financial bids have already been opened. We therefore decline to entertain the present petition on the ground of delay. Needless to state that if the petitioner is aggrieved by a similar clause in any RFP that may be issued by the respondent No.1/NHAI in the future and it approaches the court within a reasonable time, the said plea shall be considered and a view taken in accordance with law.

HIMA KOHLI, J

SUBRAMONIUM PRASAD, J

JUNE 29, 2020
NA