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

+ **W.P.(C) 4117/2020**

YAPI MERKEZI & ORS.

..... Petitioners

Through: Mr. Nishant Das and
Mr. Mohit Negi, Advocates.

versus

**NATIONAL CAPITAL REGION TRANSPORT CORPORATION
&ORS.**

.... Respondents

Through: Mr. Sudhir Nandrajog, Sr. Advocate
with Mr. Rajesh Katyal, Standing Counsel for
R-1/NCRTC

Mr. Chetan Sharma, ASG with Mr. Jasmeet Singh,
CGSC and Mr. Srivats Kaushal, Advocates
for R-2 and R-3.

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER

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10.07.2020

HEARD THROUGH VIDEO CONFERENCING

W.P.(C) 4117/2020, C.Ms. No. 14778/2020 (by the petitioners for *ex-parte ad interim* reliefs), 14779/2020 (exemption) and 14780/2020 (exemption)

1. The present petition has been filed by petitioners praying *inter alia* that they be permitted to submit their bids in response to an NIT dated 08.4.2020, issued by the respondent No.1/National Capital Region Transport Corporation (in short 'NCRTC').
2. We may note that in the instant case, the deadline for submitting the

bids was extended by the respondent No.1 thrice, lastly upto 15.00 hrs. on 08.7.2020. The petitioner No.1 claims that it tried to upload the bid from Turkey on 08.7.2020 at 13.30 hrs. (IST) but the e-portal of the respondent No.1/NCRTC remained inaccessible. A second attempt was made by the petitioner No.1 to upload its tender documents at 14.20 hrs., but without any success. A third attempt, specific time whereof has not been mentioned in the writ petition, was made later, but before 15.00 hrs., however, the web portal of the respondent No.1/NCRTC showed that there was an error.

3. Mr. Sudhir Nandrajog, learned Senior Advocate appearing for the respondent No.1/NCRTC states that the petitioners are in gross non-compliance of the terms and conditions of the bid inasmuch as para (C) of the bid documents, dealing with the preparation of bids, had categorically directed at ITB 11.2 (b) that the original bid security document had to be submitted by a bidder at the address of the respondent No.1/NCRTC before the date and time specified in the e-bidding portal, as a pre-requisite for opening of the bid. Learned Senior Advocate states that admittedly, the petitioners had not submitted the bid security amount of Rs.67.00 crores to the respondent No.1 and therefore, any excuses sought to be offered by it of purported errors on the website of the respondent No.1/NCRTC cannot be accepted. He states that on 08.7.2020, there were technical snags on the website of the respondent No.2/NIC at 10.41AM, 12.58PM and 1.52PM, each for about five and no more. It has also been pointed out that during the period when the petitioners claim that the website of the respondent No.2/NIC was under maintenance and had remained inaccessible, 486 bids in respect of the various tenders were received on its website from 01.00 PM to 03.00 PM.

4. We have first enquired from learned counsel for the petitioners as to whether the bid security documents were submitted by his client at the office of the respondent No.1/NCRTC, in term of the bid documents well before the specified date and time. Learned counsel concedes that the bid security amount was not submitted by the petitioner to the respondent No.1/NCRTC.

5. The petitioner has failed to comply with the terms of the tender documents by depositing the original bid security documents and that itself is sufficient reason for it to be non-suited. Pertinently, the petitioners have not even mentioned the relevant facts relating to non-deposit of the bid security documents with the respondent No.1/NCRTC. Even otherwise, the five minutes glitches thrice on 08.7.2020, cannot explain the inaction on the part of the petitioners right upto 15.00 hrs. of the same date, for failing to upload its bid documents, when several other were able to successfully upload documents on the website of the respondent No.2/NIC in the last two hours.

6. Accordingly, the present petition is dismissed as meritless along with the pending applications.

HIMA KOHLI, J

SUBRAMONIUM PRASAD, J

JULY 10, 2020

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