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

% *Date of Decision: 21st July, 2020*

+ LPA 179/2020
MS NEW GROW SOFTWARE
SOLUTIONS PVT LTD Appellant

Through: Mr. Rajiv Ranjjan Mishra &
Mr.Saurabh, Advs.

versus

AIRPORTS ECONOMIC REGULATORY
OF INDIA & ANR. Respondents

Through: Mr. Jasmeet Singh, CGSC with
Mr.Srivats Kaushal, Adv. for UOI

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE PRATEEK JALAN

JUDGMENT

: **D. N. PATEL, Chief Justice (Oral)**

Proceedings of the matter have been conducted through video conferencing.

CM APPL. 15833/2020(Exemption)

Exemption allowed, subject to all just exceptions.

The application is disposed of.

LPA 179/2020 & CM APPL. 15832/2020

1. The appellant (original petitioner in W.P.(C) 3784/2020) has filed this appeal against impugned interim order dated 3rd July, 2020 passed in W.P.(C) 3784/2020, whereby the learned Single Judge has not been inclined to grant interim relief to the appellant (original petitioner).

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2. The contract in question was awarded to this appellant (original petitioner) for manpower supply which was entered into on 14th April, 2020. As per terms of the contract, a performance bank guarantee of ₹5,08,297/- was to be submitted by this appellant within a period of 15 days from the date of contract, i.e. on or before 30th April, 2020. An application for extension of time to submit the performance bank guarantee was also preferred by this appellant which was granted by the respondents. Even within the extended time limit, this appellant failed to submit the performance bank guarantee. Similarly, this appellant failed in making the payment of salary for the month of May, 2020 to the workers. Consequently, for these two grounds, the contract was cancelled on 16th June, 2020.

3. Being aggrieved and dissatisfied by the cancellation of the contract on 16th June, 2020, this appellant (original petitioner) has preferred a writ petition being W.P.(C) 3784/2020 with the following prayers:

“a. To issue a writ/order/direction to set aside the order dated 16.06.2020 whereby the respondent no.1 cancelled the contract dated 14.04.2020, AND

b. To issue a writ/order/direction in the nature of Mandamus against the Respondents to restore the contract dated 14.04.2020 AND

c. To issue a writ/order/direction in the nature of Mandamus against the Respondents to grant one week more time to furnish the PBG as Demand Draft AND

d. Award costs incurred in the litigation & compensations to the Petitioner; AND

e. Pass any order or such further order/directions as this Hon'ble Court deems fit and proper in the interest of justice.”

4. Having heard the counsel for the appellant and looking to the facts

and circumstances of the case, it appears that the present appeal has been preferred against an interim order dated 3rd July, 2020 passed in W.P.(C) 3784/2020 whereby the learned Single Judge has declined to grant interim stay. However, the writ petition is pending before the learned Single Judge and the next date of hearing is 1st September, 2020.

5. Looking to the fact that the appellant has failed in providing the performance bank guarantee of ₹5,08,297/-, which was otherwise required as per the terms of contract, there is no *prima facie* case in favour of the appellant. The balance of convenience is also not in favour of the appellant as the work involved in the contract has already been assigned to another contractor by the concerned respondent authority. Moreover, no irreparable loss is going to be caused to this appellant, especially looking to the contractual aspects of the matter.

6. In view of the aforesaid facts/reasons, in our considered view, no error has been committed by the learned Single Judge while passing the interim order dated 3rd July, 2020 in W.P.(C) 3784/2020 (Annexure A-1 to the memo of this LPA). Hence, we find no reason to entertain this Letters Patent Appeal and therefore the same is dismissed.

CHIEF JUSTICE

PRATEEK JALAN, J

JULY 21, 2020

ns

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