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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Date of Decision: 28th July, 2020

+ **W.P.(C) 4630/2020 & CM APPLs.16731-32/2020**
HIGH COMMAND Petitioner
Through: Mr. Gaurav Puri, Advocate.
(M:9899199898)

versus

DELHI DEVELOPMENT AUTHORITY & ORS. Respondents
Through: Ms. Mrinalini Sen Gupta, Standing
Counsel with Ms. Nihaarika Jauhari,
Advocate for DDA. (M:9873367274)

CORAM:
JUSTICE PRATHIBA M. SINGH

Prathiba M. Singh, J. (Oral)

1. This hearing has been done by video conferencing.
2. The Petitioner was one of the bidders in the e-tender issued on 8th May, 2020 for deployment of security guards at the Squash and Badminton Stadium run by the Delhi Development Authority (*hereinafter*, “DDA”). The Petitioner had submitted its bid and so had various other bidders. The Petitioner has, however, been declared bid rank ‘L3’ and has therefore not been called for the draw of lots. Hence, the present petition.
3. The submission of Mr. Gaurav Puri, Id. Counsel for the Petitioner is that the bids submitted by the other bidders show that the bidders have quoted Rs.1/- above minimum wages, which is contrary to the scheme of the bid itself. All successful contractors have to provide various facilities to the security guards including uniforms etc. and the same is impractical with a profit of only Rs.1/-. He further submits that his client had quoted Rs.899/- which included the bonus amount and profit of Rs.71/-. As per clause 8 and 8(a), the taxes i.e. EPF, ESI and GST are not to be included in the bid.

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Further, insofar as the bonus is concerned, according to the Petitioner's understanding, the same was to be added in the bid amount. He submits that since the Petitioner was not called for the draw of lots, the Petitioner made a representation on 23rd July, 2020, however, the same has not been considered.

4. Ms. Sen appearing for DDA on advance notice submits that the draw of lots which was listed for today has been postponed and no specific date has been fixed. The Petitioner is only 'L3' and there are other bids which DDA has finalized for the draw of lots.

5. Considering the submissions made by the parties, this court is of the opinion that the representation made by the Petitioner shall be considered by the DDA inasmuch as the Rs.1/- profit, which has been quoted by other bidders, would have to be realistically viewed by the DDA. The stand of the Petitioner in respect of Clauses 8 and 8(a) also ought to be considered. If the bonus is to be included, then the margin of Rs. 1/- appears impractical and unrealistic. This is a commercial bidding process and the same ought to be fair and competitive. Such a low margin may in fact reflect on the quality of services as well. A speaking order be passed by the DDA and be communicated to the Petitioner within two weeks. All rights and remedies of the Petitioner in respect of the said order are left open. In the meantime, the draw of lots shall not be held for a period of four weeks from today.

6. The petition is disposed of in the above terms. All pending applications are also disposed of.

PRATHIBA M. SINGH
JUDGE

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