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

+ W.P.(C) 4762/2020 & CM 17222/2020 (Stay)

AAN ENGINEERING INDUSTRIES LIMITED Petitioner

Through: Mr. J.P. Sengh, Sr. Advocate
with Mr. Anand Shankar Jha, Mr. Rajendra
Kumar and Md. Ali, Advocates

versus

UNION OF INDIA & ORS Respondents

Through: Mr. Chetan Sharma, ASG with
Mr. Vikram Jetly, Advocate along with Mr.
Sameer Singh, G.P. for R-1 to R-3 along
with Lt. Col A.K. Singh, Mgo Branch.

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER

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13.08.2020

HEARD THROUGH VIDEOCONFERENCING

1 The petitioner seeks quashing of the letter dated 23.07.2020, issued by the respondent No.3/D.G. (Ordinance) rejecting its technical bid in the tender issued by the respondents for procurement of electronic fuzz, on the ground that the Integrity Pack Bank Guarantee (IPBG) worth Rs.3 crores furnished by the petitioner through Yes Bank, is not in compliance of the provisions of the RFP.

2 On 31.07.2020, Mr. J.P. Sengh, learned Senior Advocate appearing for the petitioner had stated that the petitioner had deposited both, the IPBG

of Rs.3 crores and the Earnest Money Deposit (EMD) of Rs.14,35,76,073/- furnished by Yes Bank and while the respondents had accepted the EMD, they have arbitrarily disqualified the petitioner on the ground that the IPBG submitted by it is not in accordance with the RFP provisions.

3 Today, in all fairness, Mr. Chetan Sharma, learned ASG states on instructions that having retained the IPBG for a period of two years reckoned from 11.05.2018, without pointing out any non-compliance of the terms of the RFP relating to the IPBG, the respondents are willing to permit the petitioner to substitute the IPBG of Rs.3 crores by furnishing one from some other scheduled Indian bank, as per the provisions of the RFP. He clarifies that the respondents have already returned the IPBG to the petitioner and it may be granted a reasonable time to furnish a fresh IPBG for the like amount.

4 Mr. J.P. Sengh, learned Senior Advocate appearing for the petitioner states that his client are more than happy with the aforesaid offer. He confirms on instructions that the respondents have returned the IPBG worth Rs. 3 crores furnished by Yes Bank to the petitioner and states that it will take 10 working days for it to substitute the said IPBG by offering one from another scheduled Indian bank, strictly in terms of the RFP provisions. He however points out that in the meantime, respondent No. 3 has issued letters to other bidders for participating in the field trial of the equipment in question for which a period of 120 days has been provided and by now, out of 120 days, 30 days have already expired. It is, thus, requested that the petitioner may also be given the same period as has been given to the other bidders to enable it to participate in the field trials.

5 We are of the opinion that the aforesaid request is reasonable. To give a level playing field to the petitioner, with the other bidders, it is directed that the respondents shall grant the petitioner a period of 120 days reckoned from the date it furnishes a fresh IPBG to the respondents, in terms of the RFP provisions. We have already fixed the timeline within which the IPBG shall be furnished by the petitioner. No further orders are required to be passed in the present petition.

6 The present petition is disposed of along with the pending application.

HIMA KOHLI, J

SUBRAMONIUM PRASAD, J

AUGUST 13, 2020

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