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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ W.P.(C) 6246/2020 and C.M. No. 22345/2020 (stay) and
C.M. No. 22346/2020 (Exemption)

VAAAN INFRA PVT LTD

..... Petitioner

Through: Mr. Ramesh Kumar, Advocate.

versus

NATIONAL HIGHWAYS AUTHORITY OF INDIA Respondent

Through: Ms. Maninder Acharya, Sr. Advocate
with Ms. Madhu Sweta and
Ms. Shivangi Khanna, Advocates.

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER

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11.09.2020

HEARD THROUGH VIDEO CONFERENCING

1. This is the second time that the petitioner/VaaaN Infra Pvt. Ltd. (in short '**VIPL**') has approached this Court within a span of three months, praying *inter alia* that Clause 2.1.c of the Request for Proposal (in short '**RFP**') issued by the respondent/NHAI in August, 2020, for Audit and Collection of Traffic Data by use of Camera Based Traffic Survey on National Highway Fee Plazas, be quashed. The petitioner/VIPL also seeks to restrain the respondent/NHAI from accepting any bid or awarding the subject contract to a third party.

2. We may note that in W.P.(C) No. 3777/2020, a similar challenge was laid by the petitioner/VIPL to the RFP issued by the respondent/NHAI in respect of the same project for four zones which was floated in March, 2020, except that the relevant clause there was Clause 2.4, which is stated to be

identical to Clause 2.1.c in the present RFP. The last date for submitting the bids in the earlier RFP was extended from time to time. By virtue of a Corrigendum issued by the NHAI, the last date was first extended to 08.5.2020 and then to 15.5.2020. By the time the petitioner/VIPL had approached the court, the Technical Bids had already been opened on 12.6.2020 and the Financial Bids were opened on 26.6.2020, though the results had not been declared.

3. Noting that the petitioner/VIPL had not approached the court promptly and that too in a tender matter and the date for opening the Technical Bids and the Financial Bids were over, this court had passed an order on 29.6.2020, declining to entertain the said petition. However, it was clarified that if the petitioner/VIPL is aggrieved by a similar clause in any RFP that may be issued by the respondent/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.

4. In the instant case, the undisputed sequence of dates is that the respondent/NHAI had floated a fresh RFP on 03.8.2020, in respect of three zones out of four zones advertised earlier and were the subject matter of the earlier writ petition. Ms. Acharya, learned Sr. Advocate appearing for the respondent/NHAI clarifies that a contract in respect of one of the four zones has already been awarded in the earlier round. The last date for submitting the physical bids was fixed as 24.8.2020. By the second Corrigendum issued by the NHAI on 20.8.2020, the last date for submitting the bids was extended to 3.9.2020 upto 11.00 AM. By the third Corrigendum issued by the NHAI on 01.9.2020, the last date for submitting the bids was extended to 10.9.2020 upto 11.00 AM, i.e., till yesterday. Ms. Acharya, learned Sr.

Advocate states on instructions that the Technical Bids have already been opened and that being the position, the present petition is as belated as the earlier petition filed by the petitioner/VIPL.

5. On enquiring from learned counsel for the petitioner/VIPL as to when was the present petition filed, he states that the same was filed on 09.9.2020 but due to some objections raised by the Registry which had to be removed, the petition could be listed in Court only today.

6. By now, the last date for submitting the bids is over. The Technical Bids were to be opened today, by 11.00 AM. As we are dictating this order, it is already 11.07 AM. Nothing could more aptly describe the term '*approaching the Court for relief at the eleventh hour*' than the fact situation of the instant case. The petitioner/VIPL had been cautioned even on the earlier occasion, when it had filed W.P.(C) 3777/2020, that it must approach the court within a reasonable time to challenge the relevant Clause in question and only then would the court take a view in the matter. However, for reasons best known to the petitioner/VIPL, it believes in acting at the nick of the moment, to its own detriment. We therefore decline to entertain the present petition on the ground of delay, while keeping the legal issue open for adjudication in some other matter.

7. The petition is dismissed *in limine*, along with the pending applications.

HIMA KOHLI, J

SUBRAMONIUM PRASAD, J

SEPTEMBER 11, 2020/ap