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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 03.01.2022
DELIVERED ON : 03.02.2022

CORAM

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.P.NO.15464 OF 2018
AND
W.M.P.NO.18343 OF 2018

KK Alliance Pvt. Ltd.,
rep. By its General Manager, Mr.Vivek Amritlal Tank,
30 Cecil Street, No.19-08, Prudential Tower,
Singapore - 049-712, having Branch Office at :
SAS Business Centre
Level 5, Landmark Building,
Ramdaspath, Nagpur 440 010.

...Petitioner

Versus

- 1.The Union of India
rep.by its Secretary to the Government,
Ministry of Coal and Petroleum,
Shastri Bhavan, New Delhi - 110 001 (India)
- 2.The Union of India
rep.by its Director General of Mines Safety,
Ministry of Labour and Employment,
Dhanbad- 826001.
- 3.The Director of Mines Safety,
Chennai Region, No.46, (Old /5 (New) 2nd Street,
Block 'AA' Anna Nagar, Chennai.
- 4.NLC India Ltd.,
Formerly Neyveli Lignite Corporation Ltd.,
rep. By its Authorized representative,
No.8, Mayor Sathyamurthy Road, 1st Floor,
FSD, Egmore, Chetpet Chennai - 600 031.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for records pertaining to the impugned letter, bearing No.18-19/000521/MM 22 (01) dated 05.05.2018, and to quash the same pertaining to tender, bearing No.ENQ/17-18/003603/MM 22(01) dated 23.12.2017, and consequently, to direct the fourth respondent to declare the petitioner as single successful bidder of the tender within a time.



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For Petitioner : Mr.N.L.Raja, Senior Counsel for
M/s. Nathan and Associates
For Respondents 1 to 3 : Mr.Venkatasamy Babu
Senior Panel Counsel
For Respondent-4 : Mr.N.Nithianandam

O R D E R

This Writ Petition has been filed, praying for the issuance of a Writ of Certiorarified Mandamus to call for records pertaining to the impugned letter, bearing No.18-19/00521/MM 22 (01) dated 05.05.2018, and to quash the same pertaining to tender, bearing No.ENG/17-18/003603/MM 22(01) dated 23.12.2017, and consequently, to direct the fourth respondent to declare the petitioner as single successful bidder of the tender within a time.

2. The facts of the case in gist and kernel are as follows:-

2. i) The petitioner is an authorized Distributors of Reutech Radar System (South African Entity) for the Indian region, dealing in the most advance Slope Monitoring Radar system. The said Slope Monitoring Radar system, (for short, 'SMRS system') is primarily manufactured only by three companies throughout the World and are being distributed through Distributors in Indian Region. It is for the limited manufacturers and sky bound significance of the said Technology, all the above stake holders have had considerable business in their respective terrain maintaining a healthy and competitive business environment pertaining to the said System.

ii) While that being so, the fourth respondent invited a tender to procure SMRS system dated 22.06.2017 (Tender I). The petitioner as well as two other distributors had participated in the tender. However, the fourth respondent cancelled the said tender and floated another tender, dated 23.12.2017 (Tender II), for installation, commissioning and set up of SRMS system in the fourth respondent mining sites. The petitioner came to understand that bids of the other Companies were technically rejected and the petitioner alone was found to be a qualified bidder.

iii) The petitioner, being a qualified bidder, ought to have been declared as successful bidder and awarded work contract to them, however, instead of awarding the work contract to the petitioner, to their shock and surprise, the fourth respondent invited another tender, (Tender III) dated 04.05.2018, in respect of same contract work, without even cancelling or terminating the earlier tender (Tender II) and the second tender was cancelled on 05.05.2018, citing administrative reasons.



iv) The act of the fourth respondent in cancelling and recalling the tenders is highly arbitrary, illegal and needs to be revisited by a suitable order of this Court, and further, to set aside the impugned letter, cancelling the petitioner Tender II, since, as per the norms set forth in the Tender II, the petitioner is a qualified tenderer and hence, they ought to have been declared as a successful tender and work contract has to be awarded to them.

3. Mr.N.L.Raja, learned Senior Counsel for the petitioner contended that, the petitioner is the Authorized Distributors for Reutech Mining, a South African Origin based company and are also engaged in the business of communications, Fuchs, electronics and solutions apart from radar systems. The fourth respondent floated a tender, dated 22.06.2017, to procure slope stability monitoring radar system along with supporting software and accessories, in which, the petitioner participated. Though time for submitting the tender was initially fixed as 02.08.2017, subsequently, the same was extended to 17.08.2017, and further, extended to 21.08.2017. But, after initiating the compliances of the Tender-I and at the threshold of its completion, the fourth respondent, without assigning any reason, cancelled the same.

4. The learned Senior Counsel further contended that, similarly, the fourth respondent floated second tender, dated 23.12.2017, for installation, commissioning and set up of SRMS system in the fourth respondent mining sites and time for submitting the tender was fixed as 07.02.2018. However, on request made by some participating member, time was extended to 22.02.2018. In the second tender floated by the fourth respondent also, the petitioner participated by submitting all the documents, which complied with the norms of the fourth respondent tender documents, and the petitioner came to understand that bids of the other Companies were technically rejected and the petitioner was technically qualified for the tender. However, the petitioner has not been declared as a successful tenderer and no work contract was awarded to them. The learned Senior Counsel contended that the petitioner being a qualified tenderer, he ought to have been declared as successful tenderer and should have been awarded with the contract work. But, vice-versa, the fourth respondent, without even cancelling the second tender, floated the third tender, dated 04.05.2018, and cancelled the second tender a day after the issuance of third tender. Hence, challenging cancellation of the third tender, dated 20.06.2018, the petitioner filed W.P.No.12904 of 2018 and the said Writ Petition was dismissed as infructuous in view of the fact that the fourth respondent, themselves, have cancelled the third tender. Thus, the act of the fourth respondent in hastily cancelling the Tenders, per se, shows that



the intention of the fourth respondent is to protract the tender process in order to favour a particular participant.

5. The learned Senior Counsel, therefore, contended that the impugned letter, dated 05.05.2018, whereby, the Tender II has been cancelled merely stating that due to administrative reason is vague, and has to be quashed and the petitioner has to be declared as a successful bidder of Tender II, since the petitioner is qualified to take up the work as floated by the fourth respondent as per the terms of the tender II. In support of the contention that the 4th respondent being a quasi-judicial authority must record reasons in support of its conclusions, he relied upon the following judgments:-

a) Harinagar Sugar Mills Ltd. Vs. Shyam Sunder Jhunjhunwala (1962) 2 SCR 339, wherein, the Hon'ble Supreme Court has held as under:

In the present case, the position is somewhat un- satisfactory. The directors passed a resolution declining to register the shares and informed the transferor and the transferees of that resolution. The transferees in their petition stated that the refusal to register transfer was without any reason, arbitrary and untenable and in the grounds of appeal they stated that they did not know of any reasons in support of the refusal and reserved liberty to reply thereto if any such reasons were given. The company in reply merely asserted that the refusal was not without any reason or arbitrary or untenable. The transferees in their rejoinder made a curious statement-of which it is difficult to appreciate the import-that they had "nowhere stated in the memoranda of appeals that the refusal to transfer shares was capricious or mala fide" and all that they "had stated was that the refusal was without any reason, arbitrary or untenable". The Deputy Secretary who decided the appeals chose to give no reasons in support of his orders. There is nothing on the record to show that he was satisfied that the action of the directors in refusing to register the shares "was arbitrary and untenable" as alleged. If the Central Government acts as a tribunal exercising judicial powers and the exercise of that power is subject to the jurisdiction of this court under Art. 136 of the Constitution, we fail to see how the power of this court can be effectively exercised if reasons are not given by the Central Government in support of its order. In the petition under s. 38 of the Indian Companies Act, 1913, the Bombay High Court declined to order rectification on a summary proceeding and relegated the parties to a



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suit and a similar order was passed by the Joint Secretary, Ministry of Finance. These proceedings were brought to the notice of the Deputy Secretary who heard the appeals. Whether in spite of the opinion recorded by the High Court and by the Joint Secretary, Ministry of Finance in respect of another block out of shares previously attempted to be transferred, there were adequate grounds for directing registration, is a matter on which we are unable to express any opinion. All the documents which were produced before the Deputy Secretary are not printed in the record before us and we were told at the bar that there were several other documents which the Deputy Secretary took into consideration. In the absence of anything to show that the Central Government exercised its restricted power in hearing an appeal under s. 111(3) and passed the orders under appeal in the light of the restrictions imposed by art. 47B of the articles of association and in the interest of the company, we are unable to decide whether the Central Government did not transgress the limits of their power. We are however of the view that there has been no proper trial of the appeals, no reasons having been given in support of the orders by the Deputy Secretary who heard the appeals. In the circumstances, we quash the orders passed by the Central Government and direct that the appeals be re-heard and disposed of according to law. Costs of these appeals will be costs in the appeals before the Central Government."

29. The orders which the Central Government passes, certainly fall within the words "determination" and "order". The proceeding before the Central Government also falls within the wide words "any cause or matter". The only question is whether the Central Government, when it hears and decides an appeal, can be said to be acting as a Court or tribunal. That the Central Government is not a Court was assumed at the hearing. But to ascertain what falls within the expression "Court or tribunal", one has to begin with "Courts". The word "Court" is not defined in the Companies Act, 1956. It is not defined in the Civil Procedure Code. The definition in the Indian Evidence Act is not exhaustive, and is for the purposes of that Act. In the Now English Dictionary (Vol. II, pp. 1090, 1091), the meaning given is:

"an assembly of judges or other persons legally appointed and acting as a tribunal to



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hear and determine any cause, civil, ecclesiastical, military or naval."

All tribunals are not Courts, though all Courts are tribunals. The word "Courts" is used to designate those tribunals which are set up in an organised State for the administration of justice. By administration of justice is meant the exercise of judicial power of the State to maintain and uphold rights and to punish "wrongs". Whenever there is an infringement of a right or an injury, the Courts are there to restore the *vinculum juris*, which is disturbed. Judicial power, according to Griffith, C. J. in *Huddart, Parker & Co. Proprietary Ltd. v. Moorehead* (1) means:-

"the power which every sovereign authority must of necessity have to decide controversies between its subjects, or between itself and its subjects, whether the rights relate to life, liberty or property. The exercise of this power does not begin until some tribunal which has power to give a binding and authoritative decision (whether subject to appeal or not) is called upon to take action."

b) *Mayer Simon, Parur Vs. Advocate General of Kerala* (1974) SCC Online Ker 45, wherein, the Kerala High Court has held as under:

"20. When two or more parties interested make an application to the Advocate-General for his consent to institute the action what is it that the Advocate-General has to do? It seems to me he has to do no more than find out whether the applicants have made out a *prima facie* case for investigation by the court in which the suit is proposed to be filed. He does not decide the rights of the parties one way or the other, but only considers the question whether, on the facts and circumstances appearing, the matter is one in respect of which he can give his consent to the initiation of the action. The applicants cannot say that they have a right to obtain the Advocate-General's consent, any more than the opposite parties in the action can maintain that they have a right to see that no action is instituted against them, or, that the Advocate-General does not accord consent. A Full Bench of three Judges, of this Court in (1961) Ker LT 986 = (AIR 1962 Ker 90) (FB), differing from



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the prior Full Bench decision of the Travancore-Cochin High Court in AIR 1954 Trav-Co 331 held that the Advocate-General acting under Section 92 does not act quasi-judicially. The Pepsu High Court has followed the Travancore-Cochin view. (Vide AIR 1956 Pepsu 65.) The Allahabad High Court in AIR 1955 AH 372, the Andhra Pradesh High Court in AIR 1957 Andh Pra 283 and in AIR 1965 Andh Pra 143 followed the Allahabad view. The Madras High Court in AIR 1964 Mad 247 also took the view that the power under Section 92 is only administrative and not quasi-judicial in nature. The prior Madras decisions are referred to in the said ruling. The Jammu and Kashmir High Court in AIR 1962 J and K 86 has also taken the same view. Isaac, J., who made the order of reference in the first instance, and the Full Bench of three Judges which referred this to a larger Bench, observed that the earlier Full Bench of this Court in A. K. Bhaskar's case 1961 Ker LT 986 = (AIR 1962 Ker 90) (FB), required reconsideration. On the nature of the power exercised by the Advocate-General. I agree with A. K. Bhaskar's case that it is not quasi-judicial.

21. But it was contended that even if the nature of function of the Advocate-General be administrative, an administrative order prejudicially affecting the rights of subjects would be subject to judicial review. For this, reliance was placed on numerous decisions of the Supreme Court, which it was said, had laid down that the border line of distinction between quasi-judicial and administrative orders was getting obliterated, and the distinction was fast evaporating. Kraipak's case AIR 1970 SC 150 and Binapani Dei's case AIR 1967 SC 1269 were, in particular referred to. In the view that I take, it is unnecessary to examine this aspect. I do not think that when the Advocate-General refuses consent, any "civil rights of the applicants are affected; nor do I think that anyone can be said to be pre-judicially affected by a grant or refusal of consent. I do not therefore propose to trench upon the thorny question whether, and if so, how far, an administrative decision



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prejudicially affecting the rights of subjects, is open to correction under Article 226. The decision of this case, can well be rested on a different ground altogether. I am in agreement with the principle stated by a Division Bench of the Madras High Court in AIR 1964 Mad 247, where the matter was put thus:

"It may be that as in the case of Section 92, Civil Procedure Code the condition is imposed to prevent impecunious persons coming forward to fight out public rights on whom the award of costs if In case the suit were to fail, will have no effect. But nevertheless the obtaining of a consent is only a preliminary requisite to be satisfied before a plaintiff can launch a suit. Such a sanction or consent is not for investigating any right but only whether an investigation into the right should be made by the appropriate authority, namely, the Court. There is undoubtedly a manifest distinction between the two."

Section 92 (2), read with Section 92 (1) of the Civil Procedure Code has barred a suit without the consent of the Advocate-General. It is this statutory provision, and not the Advocate-General's order, that affects the right of the applicants when consent is refused. And, as for granting consent, no one, I believe, has a right that no suit shall be instituted against him; much the less that no one shall consider whether there is any case for instituting a suit."

c) The Siemens Engineering and Manufacturing Co. of India Ltd. Vs. Union of India (1976) 2 SCC 981:

Before we part with this appeal, we must express our regret at the manner in which the Assistant Collector, the Collector and the Government of India disposed of the proceedings before them. It is incontrovertible that the proceedings before the Assistant Collector arising from the notices demanding differential duty were quasi judicial proceedings and so also were the proceedings in revision before the Collector and the Government of India. Indeed, this was not disputed by the learned counsel appearing on behalf of the respondents. It is now settled law that where an authority makes an order in exercise of a quasi-judicial function it must record its



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reasons in support of the order it makes. Every quasi-judicial order must be supported by reasons. That has been laid down by a long line of decisions of this Court ending with *N. M. Desai v. The Testeels Ltd. & Anr.* ('') But, unfortunately, the Assistant Collector did not choose to give any reasons in support of the order made by him confirming the demand for differential duty. This was in plain disregard of the requirement of law. The Collector in revision did give some sort of reason but it was hardly satisfactory. He did not deal in his order with the arguments advanced by the appellants in their representation dated 8th December, 1961 which were repeated in the subsequent representation dated 4th June, 1965. It is not suggested that the Collector should have made an elaborate order discussing the arguments of the appellants in the manner of a court of law. But the order of the Collector could have been a little more explicit and articulate so as to lend assurance that the case of the appellants has been properly considered by him. If courts of law are to be replaced by administrative authorities and tribunals, as indeed, in some kinds of cases, with the proliferation of Administrative law, they may have to be so replaced, it is essential that administrative authorities and tribunals should accord fair and proper hearing to the persons sought to be affected by their orders and give sufficiently clear and explicit reasons in support of the orders made by them. Then alone administrative authorities and tribunals exercising quasi-judicial function will be able to justify their existence and carry credibility with the people by inspiring confidence in the adjudicatory process. The rule requiring reasons to be given in support of an order is, like the principle of *audi alteram partem*, a basic principle of natural justice which must inform every quasi-judicial process and this rule must be observed in its proper spirit and mere pretence of compliance with it would not satisfy the requirement of law. The Government of India also failed to give any reasons in support of its order rejecting the revision application. But we may presume that in rejecting the revision application, it adopted the same reason which prevailed with the Collector. The reason given by the Collector was, as already pointed out, hardly satisfactory and it would, therefore, have been



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better if the Government of India had given proper and adequate reasons dealing with the arguments advanced on behalf of the appellants while rejecting the revision application. We hope and trust that in future the Customs authorities will be more careful in adjudicating upon the proceedings which come before them and pass properly reasoned orders, so that those who are affected by such orders are assured that their case has received proper consideration at the hands of the Customs authorities and the validity of the adjudication made by the Customs authorities can also be satisfactorily tested in a superior tribunal or court. In fact, it would be desirable that in cases arising under Customs and Excise laws an independent quasi-judicial tribunal, like the Income-tax Appellate Tribunal or the Foreign Exchange Regulation Appellate Board, is set up which would finally dispose of appeals and revision applications under these laws instead of leaving the determination of such appeals and revision applications to the Government of India. An independent quasi-judicial tribunal would definitely inspire greater confidence in the public mind."

d) The Collector Vs. V.K.Krishnaveni in W.A.No.1995 of 2018, dated 03.09.2019.

"47. Summarising the above discussion, this Court holds:

(a) In India the judicial trend has always been to record reasons, even in administrative decisions, if such decisions affect anyone prejudicially.

(b) A quasi-judicial authority must record reasons in support of its conclusions.

(c) Insistence on recording of reasons is meant to serve the wider principle of justice that justice must not only be done it must also appear to be done as well.

(d) Recording of reasons also operates as a valid restraint on any possible arbitrary exercise of judicial and quasi-judicial or even administrative power.

(e) Reasons reassure that discretion has been exercised by the decision-maker on relevant grounds and by disregarding extraneous considerations.



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(f) Reasons have virtually become as indispensable a component of a decision-making process as observing principles of natural justice by judicial, quasi-judicial and even by administrative bodies.

(g) Reasons facilitate the process of judicial review by superior courts.

(h) The ongoing judicial trend in all countries committed to rule of law and constitutional governance is in favour of reasoned decisions based on relevant facts. This is virtually the lifeblood of judicial decision-making justifying the principle that reason is the soul of justice.

(i) Judicial or even quasi-judicial opinions these days can be as different as the judges and authorities who deliver them. All these decisions serve one common purpose which is to demonstrate by reason that the relevant factors have been objectively considered. This is important for sustaining the litigants' faith in the justice delivery system.

(j) Insistence on reason is a requirement for both judicial accountability and transparency.

(k) If a judge or a quasi-judicial authority is not candid enough about his/her decision-making process then it is impossible to know whether the person deciding is faithful to the doctrine of precedent or to principles of incrementalism.

(l) Reasons in support of decisions must be cogent, clear and succinct. A pretence of reasons or "rubber-stamp reasons" is not to be equated with a valid decision-making process.

(m) It cannot be doubted that transparency is the sine qua non of restraint on abuse of judicial powers. Transparency in decision-making not only makes the judges and decision-makers less prone to errors but also makes them subject to broader scrutiny. (See David Shapiro in Defence of Judicial Candor.)

(n) Since the requirement to record reasons emanates from the broad doctrine of fairness in decision-making, the said requirement is now virtually a component of human rights and was considered part of Strasbourg Jurisprudence. See Ruiz Torija v. Spain EHRR, at 562 para 29 and Anya v. University of Oxford, wherein the Court referred



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to Article 6 of the European Convention of Human Rights which requires, "adequate and intelligent reasons must be given for judicial decisions".

(o) In all common law jurisdictions judgments play a vital role in setting up precedents for the future. Therefore, for development of law, requirement of giving reasons for the decision is of the essence and is virtually a part of "due process"

e) Naravan Jagadish Vs. State of AP. in W.P.No.24452 of 2020, dated 08.02.2021, wherein, it has been held as under:

"15. Summarising the above discussion, in The Collector v. K. Krishnaveni⁷, the Division Bench of Madras High Court culled out the following principles:

(a) In India the judicial trend has always been to record reasons, even in administrative decisions, if such decisions affect anyone prejudicially.

(b) A quasi-judicial authority must record reasons in support of its conclusions.

(c) Insistence on recording of reasons is meant to serve the wider principle of justice that justice must not only be done it must also appear to be done as well.

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(o) In all common law jurisdictions judgments play a vital role in setting up precedents for the future. Therefore, for development of law, requirement of giving reasons for the decision is of the essence and is virtually a part of "due process".

6. Per contra, the learned Senior Panel Counsel for the 4th respondent, while reiterating the averments made in the counter affidavit filed on behalf of the 4th respondent, would submit that the present Writ Petition is misconceived and not maintainable since already, the petitioner filed W.P.No.12904 of 2018 with similar prayer, which was dismissed as infructuous. He would further contend that though there were enough manufacturers available globally for the subject equipment for which, tender was called for, but only three bidders had competed, out of which, two bidders were disqualified, the 4th respondent was unable to ascertain the price reasonableness and other aspects of the tender in the absence of competitive biddings for conducting reverse action in terms of the tender conditions. Therefore, in view of peculiar circumstances and taking into commercial interests, the Tender Committee with the approval of the competent authority, took a decision to cancel the tender and accordingly, on 23.04.2018, the 4th respondent cancelled the tender (2nd tender).

7. He would also submit that after cancellation of tender (2nd tender) on 23.04.2018, re-tender (3rd tender) was issued by the 4th respondent on 04.05.2018 and though last date for submission of the bids and bid opening was scheduled on 25.05.2018, it was extended till 10.08.2018 on the requests of bidders and consequently, by letter dated 05.05.2018, the 4th respondent informed the petitioner and its manufacturer M/s.Reutech and others about the cancellation of the tender (2nd tender) and the issuance of the re-tender (3rd tender) dated 05.05.2018 which was challenged in the the present Writ Petition.

8. The learned counsel for the 4th respondent would also submit that pursuant to the issuance of the Tender dated 04.05.2018 (3rd Tender), the manufacturer of equipment, viz., M/s.Reutech with whom, the petitioner is the authorized dealer had also participated and submitted their bid dated 30.05.2018, 21.06.2018, 28.06.2018 and 09.07.2018 expressing their willingness to participate in the tender process and sought for time to submit the bid. Therefore, after expressing their willingness to participate in the present tender and having sought for time to submit the bid, the petitioner does not have locus stand to question the cancellation of the earlier tender (2nd tender).



9. The learned counsel for the 4th respondent would also point out that the petitioner has chosen only to challenge the Tender dated 04.05.2018 (3rd tender), but the petitioner has not challenged the cancellation of the 2nd tender. He would submit that cancellation of the earlier two tenders were for bona fide reasons and there is no illegality or infirmity in such cancellation and mere submission of bid by the petitioner would not accrue any right so as to compel the authority to accept the bid and the right to refuse or accept the lowest or any other tender is always available to the tendering authorities and it would not amount to infringement of Article 14 as contended by the petitioner.

10. In support of his contentions, the learned counsel for the 4th respondent would rely upon the following decisions, viz.,

a) (M/s.Mutha Associates vs. State of Maharashtra (SC) - (C.A.No.2853 of 2002), wherein, it has been held as under:

"41. That the allegations of mala fides would require a high degree of proof to rebut the presumption that administrative action has been taken bona fide was laid down as one of the principles governing burden of proof of allegations of mala fides levelled by an aggrieved party. The Court in Ajit Kumar Nag v. Indian Oil Corpn. Ltd. 2005 7 SCC 764 observed thus: (SCC p. 790, para 56)

"56. ... It is well settled that the burden of proving mala fide is on the person making the allegations and the burden is 'very heavy'. (Vide E.P Royappa v. State of T.N 1974 4 SCC 3) There is every presumption in favour of the administration that the power has been exercised bona fide and in good faith. It is to be remembered that the allegations of mala fide are often more easily made than made out and the very seriousness of such allegations demands proof of a high degree of credibility. As Krishna Iyer, J. stated in Gulam Mustafa v. State of Maharashtra 1976 1 SCC 800 (SCC p. 802, para 2): 'It (mala fide) is the last refuge of a losing litigant.'"

42. In State of M.P v. Nandlal Jaiswal 1986 4 SCC 566 this Court laid emphasis on the need for



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furnishing full particulars of allegations suggesting mala fides. The use of words such as "mala fides", "corruption" and "corrupt practice" was held to be insufficient to necessitate an enquiry into such allegations. The Court observed: (SCC p. 611, para 39)

"39. Before we part with this case we must express our strong disapproval of the observations made by B.M Lal, J. in paras 1, 9, 17, 18, 19 and 34 of his concurring opinion. The learned Judge made sweeping observations attributing mala fides, corruption and underhand dealing to the State Government. These observations are in our opinion not at all justified by the record. In the first place it is difficult to appreciate how any such observation could be made by the learned Judge without any foundation for the same being laid in the pleadings. It is true that in the writ petitions the petitioners used words such as 'mala fide', 'corruption' and 'corrupt practice' but the use of such words is not enough. What is necessary is to give full particulars of such allegations and to set out the material facts specifying the particular person against whom such allegations are made so that he may have an opportunity of controverting such allegations. The requirement of law is not satisfied insofar as the pleadings in the present case are concerned and in the absence of necessary particulars and material facts, we fail to see how the learned Judge could come to a finding that the State Government was guilty of factual mala fides, corruption and underhand dealing."

b) South Delhi Municipal Corporation Vs. Ravinder Kumar (SC) – (C.A.No.8314 of 2015), wherein, it has been held as under:

19.A careful reading of the impugned judgment and order would show that none of the aforesaid aspects have been borne in mind by the High Court and it has failed to appreciate the same in a proper perspective while exercising its judicial review power. The High Court has erred in quashing the decision of the appellant-Corporation



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regarding the cancellation of its earlier tender notice and also the subsequent tender notice issued afresh by it on 13.12.2012 for the same works.

20. For the reasons stated above, the High Court has failed to see that the appellant-Corporation adopted a fair and transparent method by inviting the bids for the re-tender notice issued by it. The High Court has not found any malafide intention on the part of appellant-Corporation in inviting the fresh bids after taking the decision to cancel its earlier tender notice. The appellant-Corporation, being the custodian of public finance, took its decision objectively with a bonafide intention to serve the best interest of the public in general. Thus, for the foregoing reasons, the appellant-Corporation has not committed any wrong in cancelling its earlier tender notice and issuing subsequent tender notice afresh inviting bids from the eligible contractors."

c) Csepdi-Trishe Consortiun vs. Tamil Nadu Generation and Distribution corporation Limited (Madras) (W.P.No.9592 of 2015), wherein, this Court held as under:

"58. It is prerogative of the owner either to accept or reject the offer. If the rejection is not made for favouring somebody in the very same process, such rejection cannot be questioned, even though the reasons for rejection are not tenable. After all, the owner is the right person, who should be left free to take a decision in his best interest. Much emphasis was made by the learned Senior Counsel for the petitioner that the impugned action of the respondents 1 to 3 was only to favour the fourth respondent. I do not find any force in the submission both legally and factually. Admittedly, the tender of the fourth respondent was also rejected. I have already pointed out that the defects or the deficiencies pointed out on the side of the fourth respondent were minimal. If at all the TANGEDCO wanted to favour the fourth respondent, they would have very well accepted the tender of the fourth respondent, more particularly, at that time, the financial obligation was heavily on the tenderer. By rejecting the fourth respondent as well, the TANGEDCO exhibited their intention and decision to



go for fresh tender, in the interest of the TANGEDCO, as the Government itself subsequently has decided to fund the project.

d) M/s.Hero Ecotech Ltd., vs. Commissioner of Backward Classes Welfare (Madras) (W.P.No.1123 and 29170 of 2017), wherein, this Court held as under:

"25.Further, this Court, while considering another commercial contract matter in a case reported in 2017(6) CTC 785, CSEPDI-TRISHE CONSORTIUM vs. Tamil Nadu Generation and Distribution Corporation Ltd. (TANGEDCO), has observed at paragraph No.38 as follows:

"38.....In effect, what is sought for in the present writ petition, is nothing but a positive direction to the TANGEDCO to accept the offer made by the petitioner and conclude the contract. I do not think that such relief, as sought for in this writ petition, is maintainable, as it opposes to the very basic element of principles of contract, as no one can compel the owner/invitee to accept a particular offer, as it is always open for such person, who invited such offers, either to accept or to reject, based on the reasons, which according to such owner, cannot make the contract viable or successful, in view of deficiencies or defects in the offer."

e) M/s.Omega Enterprises vs. Ministry of Civil Aviation (Madras) (W.P.No.17825 of 2018), wherein, this Court held as under:

"18. I failed to understand as to how the above decision would help the petitioner in any manner, when it is not the proven case of the petitioner that cancellation of the tender would result in far greater loss of exchequer. In other words, this Court cannot presume that the amount quoted by the petitioner alone will be the highest at any point of time, even when fresh tender is called for. In this case, admittedly, the tender process has resulted in considering a single tender of the petitioner alone. Therefore, it cannot be said that by not considering the petitioner's tender and awarding the contract based on the price quoting by them, the respondents have faced far greater loss of



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exchequer, in the absence of any competency in the price bidding.

19. The next decision relied on in support of the petitioner's case is reported in 2016(1) SCC 724, State of Punjab vs. Bandeep Singh, to contend that the Authority cannot take any decision it chooses to and that it cannot take a capricious or arbitrary or prejudicial decision. At paragraph No.7, it is observed as follows:

"7. The same principle was upheld more recently in Ram Kishun v. State of U.P. However, we must hasten to clarify that the Government does not have a carte blanche to take any decision it chooses to; it cannot take a capricious, arbitrary or prejudiced decision. Its decision must be informed and impregnated with reasons. This has already been discussed threadbare in several decisions of this Court, including in Sterling Computers Ltd. v. M & N Publications Ltd., Tata Cellular v. Union of India, Air India Ltd., v. Cochin International Airport Ltd., B.S.N. Joshi & Sons Ltd. v. Nair Coal Services Ltd. and Jagdish Mandal v. State of Orissa."

20. I have already pointed out that the reasons stated by the tender inviting authority to cancel the tender is justifiable, as admittedly there was no price competition. Therefore, such cancellation based on such reason cannot be construed as capricious, arbitrary or prejudiced decision. In fact, in the very same decision, the Apex Court extracted the finding rendered in Anil Kumar Srivastava case reported in 2004 (8) SCC 671 to the effect that notwithstanding the fixation of upset price and notwithstanding the fact that a bidder has offered an amount higher than the reserve/upset price, the sale is still open to challenge on the ground that the property has not fetched the proper price and that the sale be set aside. Therefore, I find that the above decision is also not helping the petitioner in any manner.

21. The unreported decision of the Orissa High Court in W.P.(C) No.2656 of 2016 dated 18.05.2016 is also relied on by the petitioner side to contend that the cryptic order of cancellation without assigning any reason cannot



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be sustained. I do not think that the petitioner is entitled to canvas such point in view of the admitted position that tender condition No.22, as extracted supra, empowers the tender inviting authority to reject the tender without assigning any reason, especially, when the petitioner has participated in the tender process, after accepting the terms and conditions of the tender, which includes the above condition as well."

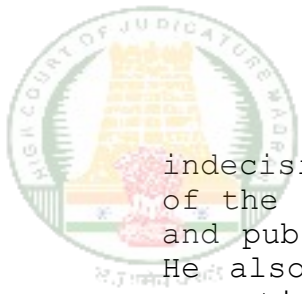
11. With the above contentions by placing above reliance, the learned counsel appearing for the 4th respondent, sought for dismissal of the Writ Petition.

12. Heard the learned Senior counsel appearing for the petitioner and the learned counsel appearing for the 4th respondent and perused the entire materials available on record.

13. Judicial review of administrative action is intended to prevent arbitrariness, irrationality, unreasonableness, bias and malafides. Its purpose is to check whether choice or decision is made 'lawfully' and not to check whether choice or decision is 'sound'. The Court does not have the expertise to correct the administrative action. If a review of the administrative decision is permitted it will be substituting its own decision, without the necessary expertise which itself may be fallible.

14. In the present case, the tendering authority/4th respondent has cancelled the earlier tender (2nd tender) on 23.04.2018 and issued fresh tender (3rd tender) on 4.5.2018. While so, it is pertinent to note that the petitioner has not challenged the cancellation of the tender (2nd tender), but challenged the proceedings dated 05.05.2018, in and by which, the 4th respondent informed the petitioner about the cancellation of the tender (2nd tender) and issuance of fresh tender (3rd tender) dated 04.05.2018 with due date of opening as 25.05.2018 for the very same item, i.e. procurement of slope stability monitoring radar system and requested the petitioner to participate in the tender.

15. The primordial contention of the learned counsel appearing for the petitioner is that in the matter of award of contract pursuant to the tender notification, the tendering authority has to act reasonably and fairly at all points of time and in the present case, admittedly, the petitioner stood lowest bidder and fulfilled all the eligibility criteria regarding technical and general conditions, however, for the reasons best known to the 4th respondent, without accepting the bid submitted by the petitioner, has ventured to outrightly cancel the tender notification itself, which is illegal, unreasonable, vague and



indecisive. Therefore, he would contend that since the action of the 4th respondent fails to satisfy the test of reasonableness and public interest, it is liable to be struck down as invalid. He also contended that no reasons have been assigned for not accepting the bid of the petitioner when it complied with all eligible criteria and there is absolutely, no impediment for the 4th respondent to accept the bid of the petitioner and proceed further in accordance with the terms of the tender. Therefore, the impugned decision of the 4th respondent in cancelling the tender notification when the eligible bid offered by the petitioner without any defect was very much available and calling fresh tender, is unreasonable, rational, arbitrary and violative of Article 14 of the Constitution and it requires judicial review. In this regard, the learned counsel relied upon the following decisions, viz.,

a) (2006) 11 SCC 548 (B.S.N.Joshi & Sons Ltd. versus Nail Coal Services Ltd. and others), wherein, the Hon'ble Supreme Court has held as under:

"66. We are also not shutting our eyes towards the new principles of judicial review which are being developed; but the law as it stands now having regard to the principles laid down in the aforementioned decisions may be summarized as under :

i) If there are essential conditions, the same must be adhered to;

ii) If there is no power of general relaxation, ordinarily the same shall not be exercised and the principle of strict compliance would be applied where it is possible for all the parties to comply with all such conditions fully;

iii) If, however, a deviation is made in relation to all the parties in regard to any of such conditions, ordinarily again a power of relaxation may be held to be existing

iv) The parties who have taken the benefit of such relaxation should not ordinarily be allowed to take a different stand in relation to compliance of another part of tender contract, particularly when he was also not in a position to comply with all the conditions of tender fully, unless the court otherwise finds relaxation of a condition which being essential in nature could not be relaxed and thus the same was wholly illegal and without jurisdiction.



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v) When a decision is taken by the appropriate authority upon due consideration of the tender document submitted by all the tenderers on their own merits and if it is ultimately found that successful bidders had in fact substantially complied with the purport and object for which essential conditions were laid down, the same may not ordinarily be interfered with.

(vi) The contractors cannot form a cartel. If despite the same, their bids are considered and they are given an offer to match with the rates quoted by the lowest tenderer, public interest would be given priority.

(vii) Where a decision has been taken purely on public interest, the Court ordinarily should exercise judicial restraint.

67. Law operating in the field is no longer res integra. The application of law, however, would depend upon the facts and circumstances of each case. It is not in dispute before us that there are only a few concerns in India who can handle such a large quantity of coal. Transportation of coal from various collieries to the thermal power stations is essential. For the said purpose, apart from transportation job, the contractor is required to see that coal of appropriate grade is supplied. Appellant herein is in business for the last 52 years. It had been taking part in contracts involving similar jobs in various parts of India. It had all along been quoting a low rate. According to it, despite the same it has been generating profits.

68. The employer concededly is not bound to accept a bid only because it is the lowest. It must take into consideration not only the viability but also the fact that the contractor would be able discharge its contractual obligations. It must not forget the ground realities. MAHAGENCO considered all aspects of the matter while accepting Appellant's offer. In its counter affidavit, it categorically stated that Appellant would be able to perform the contractual undertaking even at such a low rate.

69. While saying so, however, we would like to observe that that having regard to the fact



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that a huge public money is involved, a public sector undertaking in view of the principles of good corporate governance may accept such tenders which is economically beneficial to it. It may be true that essential terms of the contract were required to be fulfilled. If a party failed and/or neglected to comply with the requisite conditions which were essential for consideration of its case by the employer, it cannot supply the details at a latter stage or quote a lower rate upon ascertaining the rate quoted by others. Whether an employer has power of relaxation must be found out not only from the terms of the notice inviting tender but also the general practice prevailing in India. For the said purpose, the court may consider the practice prevailing in the past. Keeping in view a particular object, if in effect and substance it is found that the offer made by one of the bidders substantially satisfies the requirements of the conditions of notice inviting tender, the employer may be said to have a general power of relaxation in that behalf. Once such a power is exercised, one of the questions which would arise for consideration by the superior courts would be as to whether exercise of such power was fair, reasonable and bona fide. If the answer thereto is not in the negative, save and except for sufficient and cogent reasons, the writ courts would be well advised to refrain themselves in exercise of their discretionary jurisdiction."

b) (2014) 3 SCC 760 (Maa Binda Express Carrier and another versus North East Frontier Railway and others), wherein, it has been held as under:

"8. The scope of judicial review in matters relating to award of contract by the State and its instrumentalities is settled by a long line of decisions of this Court. While these decisions clearly recognize that power exercised by the Government and its instrumentalities in regard to allotment of contract is subject to judicial review at the instance of an aggrieved party, submission of a tender in response to a notice inviting such tenders is no more than making an offer which the State or its agencies are under no obligation to accept. The bidders participating in the tender process cannot, therefore, insist that their tenders should be accepted simply because a given tender is the highest or lowest depending



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upon whether the contract is for sale of public property or for execution of works on behalf of the Government. All that participating bidders are entitled to is a fair, equal and non-discriminatory treatment in the matter of evaluation of their tenders. It is also fairly well-settled that award of a contract is essentially a commercial transaction which must be determined on the basis of consideration that are relevant to such commercial decision. This implies that terms subject to which tenders are invited are not open to the judicial scrutiny unless it is found that the same have been tailor made to benefit any particular tenderer or class of tenderers. So also the authority inviting tenders can enter into negotiations or grant relaxation for bona fide and cogent reasons provided such relaxation is permissible under the terms governing the tender process.

9. Suffice it to say that in the matter of award of contracts the Government and its agencies have to act reasonably and fairly at all points of time. To that extent the tenderer has an enforceable right in the Court who is competent to examine whether the aggrieved party has been treated unfairly or discriminated against to the detriment of public interest. (See: Meerut Development Authority v. Association of Management Studies and Anr. etc. (2009) 6 SCC 171 and Air India Ltd. v. Cochin International Airport Ltd. (2000) 1 SCR 505)."

c) Order of this Court, dated 03.06.2015 in W.P.(MD) No.371 of 2015 (M/s.M.r.Pro Tech Pvt.Ltd., versus The Director, ISRO Propulsion Complex, Mahendragiri and others), wherein, this Court has held as under:

19. From the above decisions, the following principles emerge:

(a) the basic requirement of Article 14 is fairness in action by the State, and non-arbitrariness in essence and substance is the heartbeat of fair play. These actions are amenable to the judicial review only to the extent that the

State must act validly for a discernible reason and not whimsically for any ulterior purpose. If the State acts within the bounds of reasonableness, it would be legitimate to take into consideration the national priorities;

(b) fixation of a value of the tender is entirely



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within the purview of the executive and courts hardly have any role to play in this process except for striking down such action of the executive as is proved to be arbitrary or unreasonable. If the Government acts in conformity with certain healthy standards and norms such as awarding of contracts by inviting tenders, in those circumstances, the interference by Courts is very limited;

(c) In the matter of formulating conditions of a tender document and awarding a contract, greater latitude is required to be conceded to the State authorities unless the action of tendering authority is found to be malicious and a misuse of its statutory powers, interference by Courts is not warranted;

(d) Certain preconditions or qualifications for tenders have to be laid down to ensure that the contractor has the capacity and the resources to successfully execute the work; and

(e) If the State or its instrumentalities act reasonably, fairly and in public interest in awarding contract, here again, interference by Court is very restrictive since no person can claim fundamental right to carry on business with the Government."

d) "(2016) 1 SCC 724 (State of Punjab versus Bandheep Singh and others) wherein, the Hon'ble Supreme Court has held as under:

"7. The same principle was upheld more recently in Ram Kishun Vs. State of U.P. (2012) 11 SCC 511. However, we must hasten to clarify that the Government does not have a carte blanche to take any decision it chooses to; it cannot take a capricious, arbitrary or prejudiced decision. Its decision must be informed and impregnated with reasons. This has already been discussed threadbare in several decisions of this Court, including in Sterling Computers Ltd. v. M & N Publications Ltd. (1993) 1 SCC 445, Tata Cellular v. Union of India (1994) 6 SCC 651, Air India Ltd. v. Cochin International Airport Ltd. (2000) 2 SCC 617, B.S.N. Joshi & Sons Ltd. v. Nair Coal Services Ltd. (2006) 11 SCC 548, Jagdish Mandal v. State of Orissa (2007) 14 SCC 517.

8. In the impugned Judgment, the High Court has rightly concluded that no sustainable justification and rationalization was recorded in writing at the relevant time for ordering the re-auction of only the two subject properties. However, we should not be understood to have



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opined that the Government is bound in every case to accept the highest bid above the reserve price. Needless to say, the presence of cartelization or "pooling" could be a reason for the cancellation of an auction process. In addition, a challenge on the ground that the property has fetched too low a bid when compared to the prevailing market price, would also be valid and permissible provided this approach has been uniformly adhered to. In the case at hand, however, while the latter was ostensibly the reason behind the decision for conducting a fresh auction, no evidence has been placed on the record to support this contention. The highest bids, marginally above the reserve price, have been accepted in the self-same auction. The factual scenario before us is clearly within the mischief which was frowned upon in Mohinder Singh Gill. We therefore uphold the impugned Judgment for all the reasons contained therein. The assailed action of the Appellant is not substantiated in the noting, which ought at least to have been conveyed to the Respondents."

16. On going through the various decisions relied upon the learned counsel for the petitioner which are extracted above coupled with the submissions made by the learned counsel for the petitioner, it would emerge and explicit the following:

i) that the tendering authority does not have a carte blanche to take any decision it chooses to (in the matter of cancelling the bid/tender) and it cannot take a capricious, arbitrary or prejudiced decision;

ii) that even such decision is taken, it must be informed in writing with justifiable reasons;

iii) that in contractual sphere, the State and all its instrumentalities (tendering authorities) have to conform to Article 14 of the Constitution of India, which non-arbitrariness is a significant facet;

iv) that if a bid presented by the tenderer has substantially complied with all the general and technical conditions of tender, the same may not be ordinarily rejected, that too without assigning any reasons thereof;

v) that while exercising the power of judicial review, in respect of contracts entered into on behalf of the State, the court is concerned primarily as to whether there has been any infirmity in the decision making process the Courts can certainly examine whether 'decision making process' was reasonable, rational, not arbitrary and violative of Article 14 of the Constitution;

vi) Article 14 of the Constitution prohibits



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government from arbitrarily choosing a contractor at its will and pleasure. It has to act reasonably, fairly and in public interest in awarding contracts;

vii) if the decision of the tendering authority is found to be mala fide or intended to favour someone, the same shall be subjected to judicial review;

viii) that all the participating bidders are entitled to a fair, equal and non-discriminatory treatment in the matter of evaluation of their tenders;

17. At the out set, this Court is of the considered view that all the decisions cited supra relied upon by the learned Senior counsel vis-a-vis his contentions, will be applicable in a situation where, among other competitive bidders, if the tendering authority with mala fide intention in order to favour any interested party, indiscriminately rejected the bid of the aggrieved party without assigning any reasons despite such bid complied with all criteria of the tender and was found without defects. But in the present case, this Court does not find any mala fide exercise on the part of the tendering authority/4th respondent in either accepting the other bid excluding the bid of the petitioner or rejecting the bid of the petitioner. After all the 4th respondent has just cancelled the tender notification itself for want of competitive bidders while globally enough manufacturers of subject material of the tender, are available.

18. Therefore, the prime reason for taking a decision by the 4th respondent in cancelling and issuing fresh tender (tender No.3) is that since the global tender floated by the 4th respondent turned into a single tender since no sufficient tenderers have submitted the bids while there are enough manufacturers are available globally for the subject equipment for which, the tender (2nd tender) has been floated. Further, pursuant to the tender, only three bids were quoted, of which, two bids were disqualified and the remaining bidder, i.e. the petitioner herein was available, in such circumstances, there was no occasion for the 4th respondent to compare the price and other aspects of the tender in the absence of competitive biddings for conducting reverse action in terms of the tender conditions. Therefore, in such circumstances, the 4th respondent was constrained to cancel the earlier tender and resorted to rebidding. This Court does not find any illegality or infirmity with the decision of the 4th respondent in cancelling the tender (2nd tender) in order to interfere with the same by this Court while exercising its discretionary power under Article 226 of the Constitution of India. In fact, in order to promote full transparency, healthy competition and award of works at the most reasonable price, it is generally desirable to invite many tenderers by the tendering authority instead of resorting to finalize the single bid.



19. However, in this regard, the learned Senior counsel would point out that there were totally three bids were knocked pursuant to the tender notification and even though two other bids were disqualified, but the same bids can be considered as competitive biddings for the purpose of comparison of price and quality with that of the bid of the petitioner and thereby, it cannot be turned into single tender enquiry so as to reject the same. This Court does not find any considerable force in the submission made by the learned Senior counsel for the petitioner. Admittedly, the other two bids were found disqualified and there would be no occasion for the tendering authority/4th respondent to open and consider the same for the purpose of comparison of the same with that of the bid of the petitioner. Generally, disqualified tenders will be rejected at the threshold and they cannot be considered for any purpose muchless comparison of price and quality with that of the other bids and it is not proper for the tendering authority to compare the disqualified bids with that of the other bids for the purpose of finding the same as qualified. Therefore, the submission made by the learned Senior counsel in this regard, cannot be accepted.

20. It is further contention of the learned Senior counsel that no proper reasons have been assigned for not accepting the bid offered by the petitioner and the impugned letter dated 05.05.2018 merely states the reason for cancellation as administrative, is vague and not specific in nature and hence, the same is void in law and liable to be quashed. In this regard, it is pertinent to note that the 4th respondent has cancelled the tender (2nd tender) notification itself and not the tender bid offered by the petitioner. As already discussed above, the reasons for cancellation of tender itself are that pursuant to the tender, only three bids were quoted, of which, two bids were disqualified and the remaining bidder, i.e. the petitioner herein was alone available, in such circumstances, there was no occasion for the 4th respondent to compare the price and other aspects of the tender in the absence of competitive biddings for conducting reverse action in terms of the tender conditions. Therefore, when once the tender (2nd tender) notification itself was cancelled, no occasion would arise to assign reasons in respect of non-acceptance of the tender bid of the petitioner. However, in the impugned letter, the 4th respondent has clearly assigned the reason for cancellation of tender (2nd tender) as due to administrative reasons. It is prerogative of the tendering authority to cancel the tender notification itself in the event of non-receipt of sufficient tenders from the competitive bidders and in the present case, only three tender bids were quoted, of which, two bids were disqualified since not fulfilled the terms of the tender and the tendering authority/4th respondent has not processed the



remaining tender bid of the petitioner in the absence of competitive bids for the purpose of comparison of price and quality and other aspects of the tender by resorting to reverse action in terms of the tender conditions. If the tendering authority/4th respondent rejected the tender bid offered by the petitioner, then insist upon the reasons to be assigned for such rejection, is acceptable and reasonable, but in the present case, such situation had not arisen since the 4th respondent/tendering authority has cancelled the very tender (2nd tender) notification itself due to administrative reasons which may not be necessary to assign what are all the administrative reasons to venture for cancellation of the tender.

21. The administrative reasons are purely in the nature of internal affairs and any decision taken by the internal management in the organization, inasmuch as it would not affect the right or interest of the petitioner, the said decision taken on administrative grounds, need not be assigned to the 3rd party including the petitioner herein. In the present case, absolutely, the cancellation of the tender (2nd tender) would not affect the right or interest of the petitioner since the 4th respondent has issued the fresh tender (3rd tender) for the very same subject product wherein, the petitioner can very well participate. Therefore, this Court is of the view that the petitioner does not have any genuine grievance at all since the petitioner's right to participate in the fresh tender (3rd tender) is very much protected.

22. It is settled that mere disagreement with the decision-making process or the decision of the administrative authority is no reason for a constitutional Court to interfere. The threshold of mala fides, intention to favour someone or arbitrariness, irrationally or perversity must be met before the constitutional Court so as to interfere with the decision-making process or the decision. Further, this Court does not have the expertise to correct the administrative action and it is within the realm of the tendering authority and if a review of the administrative decision is permitted, it will be substituting its own decision without the necessary expertise which itself may be fallible.

23. In fact, in the impugned proceedings dated 05.05.2018, the 4th respondent, while informing the cancellation of the tender (2nd tender) due to administrative reasons, has specifically intimated issuance of a fresh tender (3rd tender) for the very same item which was the subject item of the cancelled tender (2nd tender) and the details can be downloaded from their website and also requested the petitioner to participate in the said tender. Therefore, the right of the petitioner in participating in the 3rd tender is always available



and no prejudice would be caused to the petitioner. But the petitioner has been insisting to accept the bid on the ground that the bid submitted by the petitioner complies with all the criteria, etc., The logic behind such insistence of the petitioner to compel the 4th respondent to accept the single bid of the petitioner alone, can easily be presumed by this Court that for the purpose of avoiding competition from other tenderers in respect of quoting lowest bid price etc. and the other tenderers may point out lack of qualification or defects in the tender of the petitioner and to enrich itself by quoting its own price taking advantage of non-participation of other tenders in the field and that there may be no occasion for the 4th respondent to compare the bid price, quality and other aspects in respect of the subject item of the tender. Therefore, the intention of the petitioner in insisting upon the 2nd tender vis-a-vis acceptance of their tender, without challenging the cancellation of the 2nd tender, in the opinion of this Court, is not bona fide and cannot be sustained.

24. For the all the foregoing reasons, this Court does not find any merit in the contentions raised by the learned Senior counsel for the petitioner in order to entertain the present Writ Petition and hence, the same is liable to be dismissed.

25. In the result, the Writ Petition fails and the same is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed. No costs.

Sd/-
Assistant Registrar

// True Copy //

Sub Assistant Registrar

suk

To

- 1.The Union of India,
rep.by its Secretary to the Government,
Ministry of Coal and Petroleum,
Shastri Bhavan, New Delhi - 110 001 (India)
- 2.The Union of India,
rep.by its Director General of Mines Safety,
Ministry of Labour and Employment,
Dhanbad- 826001.
- 3.The Director of Mines Safety,
Chennai Region, No.46, (Old /5 (New) 2nd Street,
Block ''AA'' Anna Nagar, Chennai.



4.NLC India Ltd.,
Formerly Neyveli Lignite Corporation Ltd.,
rep. By its Authorized representative,
No.8, Mayor Sathyamurthy Road, 1st Floor,
FSD, Egmore, Chetpet Chennai - 600 031.

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+1cc to M/s.Nathan and Associates, Advocates Sr.No.7134

W.P.No.15464 of 2018

MG (CO)
RVM(15/02/2022)