



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.07.2024

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CORAM:

THE HON'BLE DR.JUSTICE ANITA SUMANTH

WP.No.21002 of 2024 and
WMP.Nos.22953 & 22954 of 2024

BVG India Ltd.
Represented by its
Authorised Representative/Manager – Marketing
Having Registered office at
BVG House, Premier Plaza,
Pune, Mumbai Road,
Chinchwad, Pune,
Maharashtra – 411019119

... Petitioner

Vs.

1.The Union of India
Represented by
The Chairman – Railway Board,
Ministry of Railways,
Rail Bhawan,
New Delhi.

2.The General Manager,
Southern Railway,
Southern Railway Headquarters,
Park Town, Chennai – 600 003.

3.M/s.Brandavan Food Products,
Having its office at
D-187, Pocket-D,
Okhla Phase-I,
Okhla Industries Estates,
New Delhi – 110020
Represented by its Partners

... Respondents



WP.No.21002

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of writ of Certiorarified Mandamus calling for the records relating to Letter of Award issued by the 2nd Respondent in Letter No.SRHQ-COMMERCIAL/SRYSA022024/10127360100928 dated 15.04.2024, issued in favour of the 3rd respondent, quash the same and consequently direct the 1st and 2nd respondents to take action on the 3rd respondent and its constituents by banning the business dealings with the Respondents 1 & 2, and further debar and blacklist them from participating in future tenders of similar nature for at least a period of five years, as per Clause 22 & 23 of Affidavit in Annexure 7 to the Tender Document No.SR/YSA/02/2024 dated 15.02.2021 issued by the 2nd respondent.

For Petitioner: Mr.G.Rajagopalan
Senior Counsel
for Mr.Niranjan Rajagopalan

For Respondents: Mr.V.Chandrasekaran (R1 and R2)
Senior Panel Counsel

ORDER

Mr.V.Chandrasekaran, learned Senior Panel Counsel accepts notice for R1 and R2 and is armed with instructions to enable final disposal of this Writ Petition, even at this juncture.

2.The petitioner has challenged a letter of award issued by the General Manager, Southern Railway to the 3rd respondent on 15.04.2024. The premise of the present writ petition is that there has been a suppression of fact/non-disclosure of pending criminal cases on the part of R3 rendering it ineligible to have been awarded the contract. Incidentally, the contract is for a tender called the Yatri Seva Anubandh



Seva initiative on the Vande Bharat Trains for on-board catering services.

3. There is no dispute in regard to the position that in the format of affidavit to be submitted by the bidder (placed at page 130 of the typed set), Clause 21 states that if the contents of the affidavit are found to be false at any stage during bid valuation, it will lead to rejection of the bid and forfeiture of the bid security.

4. According to the petitioner, R3 is in default in regard to the requirement in Clause 5 of that affidavit, which requires a confirmation from the bidder that it has not been implicated in any criminal case and that there are no cases pending for criminal activity in any Court of law. This Court is not inclined to look into the pendency or otherwise of the criminal cases as this would entail an examination of facts. However, Mr. Chandrasekaran draws attention to the terms of the bid licence itself which, at Clause 5 states as follows:

'5. I/We are/am fully aware that if I/We furnish any wrong information/details in the bid document, the same will be rejected by Railway Administration and EMD will be forfeited, without assigning any reason during bid finalization. I/We also accept that Railway Administration has the right to annul and terminate the license agreement on knowing that license has been awarded to me based on the wrong information/details furnished by me in bid document.'

5. Thus, if at all there has been wrong/false information supplied by the bidder and if the same comes to the notice of the tender inviting authority/R2 then it is incumbent upon that authority to look into the same, and after proper verification, take a view on whether that bid is liable to be entertained or otherwise. Hence, it would be best that the petitioner claiming to be in possession of such information,



WP.No.21002

bring the same to the notice of R2.

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6. Liberty is granted to the petitioner to make representation to R2 and Mandamus is issued to R2 to consider the representation, if and when filed, and pass necessary orders thereupon after hearing the petitioner as well as R3, within a period of one week from date of receipt of the representation.

7. With this, this writ petition stands disposed, without any intervention in letter of award dated 15.04.2024. No costs. Connected miscellaneous petitions are closed.

25.07.2024

vs

Index:Yes/No

Speaking order

Neutral citation : Yes

To

1.The Union of India

Represented by

The Chairman – Railway Board,

Ministry of Railways,

Rail Bhawan,

New Delhi.

2.The General Manager,

Southern Railway,

Southern Railway Headquarters,

Park Town, Chennai – 600 003.



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DR.ANITA SUMANTH,J.

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