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

+ **W.P.(C) 4269/2024 & CM APPL. 17485/2024**

OKHLA INDUSTRIAL ESTATE DEVELOPMENT SOCIETY

..... Petitioner

Through: Mr. Jagjit Singh and Mr. Preet Singh,
Advocates

versus

MUNICIPAL CORPORATION OF DELHI & ANR. Respondents

Through: Mr. Sanjay Vashishtha, Standing
Counsel, MCD with Mr. Vishal
Kumar and Mr. Akash Mishra,
Advocates

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Date of Decision: 20th March, 2024

CORAM:

HON'BLE THE ACTING CHIEF JUSTICE

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

JUDGMENT

MANMOHAN, ACJ : (ORAL)

CM APPL. 17486/2024 (for exemption)

Allowed, subject to all just exceptions.

Accordingly, the present application stands disposed of.

W.P.(C) 4269/2024

1. Present petition has been filed under Article 226 of the Constitution of India seeking issuance quashing of the Tender Notice No. AC/RPC/MCD/2024/D-3039, dated 16.02.2024, AC/RPC/MCD/2024/D-



3233, dated 26.02.2024, issued by the Municipal Corporation of Delhi (MCD), i.e., Respondent No.1.

2. It is stated that Respondent No.1 has issued impugned E-Tender Notice No. AC/RPC/MCD/2024/D-3039, dated 16.02.2024, ACR/RPC/MCD/2024/D-3223 dated 26.02.2024, Corrigendum I and II, AC/RPC/MCD/2024/D-3243, DATED 27.02.2024 for parking sites including the parking cluster no.7 of Okhla Industrial Estate, Phase-III, New Delhi, Zone Central, New Delhi, with Minimum License Fee of Rs. 19,29,750/- per month.

2.1. It is stated that the Petitioner Association met the officials of MCD requesting them to allot the operation and management of parking sites at Okhla Industrial Estate Development Society, Exhibition Complex, Phase-III, New Delhi to the Petitioner Association.

2.2. The Petitioner Association states that it is ready and willing to follow the instructions, terms and conditions for the operation and management of parking site, as they are similarly placed like the Traders Associations of Karol Bagh, Delhi and Central Market Lajpat Nagar, New Delhi. It is stated that those Traders Associations have been permitted to pay minimum reserve price as per the policy of MCD and operate the parking sites in their jurisdiction, but the said request of the Petitioner Association has not been acceded to. Therefore, the Petitioner Association has filed the present petition for quashing of the impugned tender issued by the MCD.

3. Learned counsel for the Petitioner states that handing over of the operation of parking cluster no.7 of Okhla Industrial Estate, Phase-III, New Delhi, Zone Central, New Delhi will be beneficial for the occupants and owners of the buildings who are members of the Petitioner Association. He



further states that giving management of the said parking site to the Petitioner Association will be in the interest of the neighborhood as private contractors permit haphazard parking for the motive of earning and collecting maximum parking fees from the visitors. He states that the members of the Petitioner Association feel harassed by the manner of operations of the private contractors who are awarded the parking site rights by MCD.

3.1. He states that MCD on a pilot project basis i.e., in Karol Bagh and Central Market Lajpat Nagar, has awarded parking lots to local trader associations instead of awarding the same to private contractors.

4. In reply, learned counsel for the MCD who appears on advance service states on instructions that the parking sites in Karol Bagh as well as in Central Market Lajpat Nagar, have been re-tendered in the impugned NIT and the same is no longer available to the respective Traders associations. He states that keeping in view the concerns of Traders Associations such as the Petitioner herein Clause 6.2.5 has been included in the NIT for relaxing the eligibility criteria of such associations. He states that this relaxation gives an opportunity to the Traders Associations to compete with the other bidders.

4.1. He states that however, the request of the Petitioner Association for preferential allotment of the rights to operate the parking site without competing the open bidding would make the tender susceptible to challenge by other bidders who would plead violation of their fundamental right to bid for operating the parking site.

4.2. He states that even with respect to parking sites operated by Traders Associations several complaints of wrongdoing have been received by MCD



and therefore, as a policy decision MCD has decided to tender all parking sites and invite bids through open bidding process.

5. We have heard the learned counsel for the parties and perused the record.

6. The sole basis of the Petitioner for seeking the reliefs in the present petition is that the Traders Associations in Karol Bagh and Central Market Lajpat Nagar have been given direct allotment of management of the parking sites in their areas by MCD; and it seeks parity with the said associations. In view of the statement of the learned counsel for the MCD that the said parking sites in Karol Bagh and Central Market Lajpat Nagar have also been included for inviting bids in open tender, the basis of the relief sought in this petition does not survive.

7. Further, Clause 6.2.5 of the impugned NIT, which carves out a separate class for the Traders Association is an enabling clause for willing Traders Associations to participate in the open bidding process. However, the Petitioner has elected not to avail of the said opportunity reserved in the tender; as the bidding process stands closed and for this additional reason it cannot maintain this petition.

8. The introduction of Clause 6.2.5 appears to be a policy decision of MCD to give relaxation to a stakeholder such as Traders Association so as to enable their participation. However, the prayer of the Petitioner for seeking preferential allotment has to be the outcome of a policy decision of the MCD and no such relief can be granted in these writ proceedings as the Petitioner association has no such legal or constitutional right to demand a preferential allotment.



9. We do not find any merit in the grounds set out in the petition for seeking a preferential and direct allotment of management of parking site in its neighbourhood. In fact, admittedly, the Petitioner itself has no expertise in operation or maintenance of parking site and would in-turn have to engage services of sub-contractor for operating the parking site.

10. Accordingly, the present petition along with applications is dismissed.

ACTING CHIEF JUSTICE

MANMEET PRITAM SINGH ARORA, J

MARCH 20, 2024/hp/sk