



2024:DHC:3466-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**+ **W.P.(C) 5931/2024 & CM APPL. 24637/2024****DHRUV CHAWLA**

..... Petitioner

Through: Petitioner in person

versus

UNION OF INDIA & ORS.

..... Respondent

Through: Mr. Harish Vaidyanathan Shankar,
CGSC with Mr. Srish Kumar Mishra,
Mr. Alexander Mathai Paikaday, Mr.
Lakshat Gunawat and Mr. Krishan V.,
Advocates for R-1
Ms. Ankita Panikkar, Mr. Kushagra
Verma, Advocates for R-3/Govt. e-
Marketplace(GeM)

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Date of Decision: 30th April, 2024.**CORAM:****HON'BLE THE ACTING CHIEF JUSTICE****HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA****JUDGMENT****MANMOHAN, ACJ: (ORAL)****CM APPL. 24637/2024 (for exemption)**

Allowed, subject to all just exceptions.

Accordingly, the present application stands disposed of.

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1. Present Public Interest Litigation (PIL) filed under Article 226 of the Constitution of India on 19th April, 2024, seeks direction to the Respondents



to amend conditional Clauses in the bid document being Bid Number GEM/2024/B/4798585 dated 18th March, 2024 issued by Respondent No.1 at the Respondent No.3 portal, which are arbitrary and violative of fundamental rights enshrined under Article 14 of the Constitution of India.

2. Petitioner, who appears in person, states that the Ministry of Defence issued a letter dated 12th July, 2017 to the Chief of the Army Staff, wherein instead of making e-procurements, Army was directed to procure milk and milk products through negotiated contracts with the Respondent No.2 only, effective from 01st October, 2017. He states that such a change of procurement mechanism is against the basic principle of free and fair trade inasmuch as it completely wipes out other prospective bidders in the market. He states that under the garb of said letter, Respondent No.2 enjoys unfettered powers to unilaterally choose the member as per its whims and fancies. He further states that another letter dated 18th October, 2023 to the same effect has been issued by Respondent No.1 to the Chief of the Army Staff.

3. He states that though publication of the bid document being Bid Number GEM/2024/B/4798585 dated 18th March, 2024 on e-portal may be an effective step in tackling corruption and for ensuring transparency, but the said tender is arbitrary and violative of Article 14, inasmuch as it has in it the provision for unilateral nomination by the Respondent No. 2. He states that however, the impugned condition which entitles National Cooperative Dairy Federation of India (NCDFI) to nominate the State Cooperative is unfair and arbitrary.

4. Learned standing counsel for Respondent No. 3 states that all state cooperatives are members of NCDFI. He states that to his knowledge there



is no grievance received from any bidding entity with respect to the impugned tender clause.

5. Having heard the parties, we are of the considered opinion that a PIL for impugning tender conditions is per-se not maintainable. This issue of non-maintainability of PIL for challenging tender condition was considered by a coordinate Bench in W.P.(C) 1802/2022 in case titled ***Md. Ehraz Zafar v. Union of India & Ors.*** wherein this Court held as under:

“4. The settled principle of law is that an aggrieved person must approach the Court. The standing doctrine characteristic is that a potential litigant must be injured by the action it is challenging. Standing for individuals has been relaxed by the Indian Courts by entertaining Public Interest Litigation in the event, the person aggrieved is too poor or does not have the means to approach the Court. In fact in a Public Interest Litigation case, there need be no litigant. The concept of Public Interest Litigation is primarily linked to the enforcement of social and economic rights in India.

5. In the present instance, it is not the case of the Petitioner that he wanted to apply under the E-Tender and due to the eligibility criteria, he was prevented from applying. The petitioner claims that he has filed the present Public Interest Litigation trying to raise a public cause. However, this Court is of the view that the ‘persons aggrieved’ in the present case are lawyers or law firms, who appear in Courts daily. They are fully familiar with the practice and procedure of the Court and have access to the Court all the time.

6. Consequently, this Court is of the view that it would not be proper or appropriate to relax the standing doctrine and entertain a Public Interest Litigation on the present cause.

7. Accordingly, the present writ petition is dismissed. This Court clarifies that it has not commented on the merits of the controversy.”

(Emphasis supplied)

6. The Petitioner herein who is a practicing advocate states that he is not aware of any single bidder/entity who is aggrieved by the said tender condition. The ratio of the aforesaid order in ***Md. Ehraz Zafar v. Union of India & Ors.*** applies to the challenge laid in the present petition. We are not persuaded that any public interest is involved in the issues raised in the present petition.



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

ACTING CHIEF JUSTICE

MANMEET PRITAM SINGH ARORA, J

APRIL 30, 2024/hp/sk

Signature Not Verified

Signed By: MANJIMA
SHARMA
Signing Date: 01.05.2024
17:50:09

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