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

+ **W.P.(C) 7032/2024**

M/S ECARTES TECHNOLOGY PVT LTD

..... Petitioner

Through: Mr.Ashish Mohan with Mr.Varun
Garg, Ms.Komal Bihani and
Ms.Sagrika Tanwar, Advocates.

versus

NICDC LOGISTICS DATA SERVICES LTD AND ANR.

..... Respondents

Through: Mr.Shashank Dixit with Mr.Chetan
Jadon, Ms.Shivangi Jadon and
Ms.Hemlata Singh, Advocates for R-
2/UOI.

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Date of Decision: 16th May, 2024

CORAM:

HON'BLE THE ACTING CHIEF JUSTICE

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

JUDGMENT

MANMOHAN, ACJ : (ORAL)

C.M.No.29257/2024

1. Exemption allowed subject to all just exceptions.
2. Accordingly, the application stands disposed of.

W.P.(C) No.7032/2024 & C.M.No.29256/2024

3. Present petition has been filed challenging the action of Respondent No.1 of disqualifying the Petitioner's bid in relation to tender invited on Government E Marketplace (GEM) vide Bid No. GEM/2024/B/4557404 dated 01st February, 2024 issued by Respondent No.1 for supply of RFID



Tags for Logistics Data Bank Project. The Petitioner further seeks issuance of directions to Respondent No.1 to consider the Petitioner as qualified in the technical evaluation and consequently consider the financial bid of the Petitioner.

4. Learned counsel for the Petitioner states the Petitioner duly participated in the tender and submitted its bid on 11th March, 2024 along with all the documents in support as required by Respondent No.1. He states that during the field trial conducted by Respondent No.1 on 5th April, 2024, the RFID Tags and RFID Tag Applicators of the Petitioner were found to be satisfactory by Respondent No.1 and in compliance with all the criteria prescribed in the RFQ cum RFP.

5. He states that on 23rd April, 2024, the Petitioner submitted the same product i.e. RFID tags to an independent NABL approved Laboratory i.e. Institute of Testing and Certification (India) Pvt. Ltd. for inspection on the very same parameters as have been prescribed in clause 5.10.3 of the RFQ Cum RFP. He further states that the results of the technical evaluation were updated on the GEM Portal on 25th April, 2024 as per which Respondent No.1 had disqualified the bid of the Petitioner for the purported reason that *“the Bidder did not meet the criteria of clause 5.10.3 of RFQ cum RFP i.e. Laboratory Testing. Pull force of magnet(s) and adhesive of the RFID Tags on metal surface with 24 hour curing time at ≥ 30 kg”*. However, according to him, neither any report was updated on the portal nor shared with the Petitioner.

6. He states that no other reason has been cited by Respondent No.1 for the disqualification. He states that Institute of Testing and Certification (India) Pvt. Ltd. issued its report on 26th April, 2024, as per which, the RFID



Tags of the Petitioner duly passed and complied with the laboratory testing parameters contained in the tender.

7. He states that the Petitioner raised representation on the GEM portal on 26th April, 2024 and subsequently on 30th April, 2024 and 03rd May, 2024 against the rejection and shared the report of Institute of Testing and Certification (India) Pvt. Ltd and called upon Respondent No.1 to look into the matter so that the Petitioner gets a fair chance to participate in the financial evaluation. He however states that no revert or response has been received on the same.

8. Issue notice. Mr.Shashank Dixit, Advocate accepts notice on behalf of respondent no.2/UOI. He states that Respondent No.1 is an organisation, which is under the aegis of Respondent No.2.

9. Keeping in view the fact that the Petitioner's representations dated 26th April, 2024, 30th April, 2024 and 03rd May, 2024 have not been decided till date, this Court disposes of the present writ petition along with the application, by directing the Respondent No.2 to decide the aforesaid three representations of the Petitioner as expeditiously as possible preferably within two weeks in accordance with law. The report, if any, obtained by the respondent with regard to the Petitioner's product shall also be shared with the Petitioner. This Court clarifies that it has not commented on the merits of the controversy. The rights and contentions of all the parties are left open.

ACTING CHIEF JUSTICE

MANMEET PRITAM SINGH ARORA, J

MAY 16, 2024/KA

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Signature Not Verified

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Signing Date: 17-05-2024
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