



\$~127

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

%

Date of Decision: 28.05.2024

+ **W.P.(C) 7935/2024**

RT VISION TECHNOLOGIES PRIVATE LIMITED..... Petitioner

Through: Ms. Aparna Jain and Mr. Ishan Berry,
Advs.

versus

UNION OF INIDA & ORS.

..... Respondents

Through: Mr. Ripu Daman Bhardwaj, CGSC
along with Mr. Kushagra Kumar, Mr.
Abhinav Bhardwaj Mr. K.
Manaswini, Advs. and Mr. Rajat
Rajoria, GP for UOI.

CORAM:

HON'BLE MR. JUSTICE SACHIN DATTA

SACHIN DATTA, J. (ORAL)

CM APPL.32737/2024 (Exemption)

Allowed, subject to all just exceptions.

Application stands disposed of.

W.P.(C) 7935/2024 and CM APPL.32736/2024 (Stay)

1. The present petition has been filed by the petitioner assailing the action of the respondent no.2/Rail Coach Factory in issuing letter No.MD3441 dated 22.03.2024, downgrading the status of the petitioner from "Approved Vendor" to "Developmental Vendor".

2. Attention is drawn to the impugned order which, *inter-alia*, states as under:

"It is hereby informed that M/s RT Vision Technologies Pvt. Ltd., Greater Noida has been downgraded from approved vendor to developmental vendor for the item ID 2400064 GPS Location based Public Address &



Passenger Information System and LED Destination Boards in AC and Non-AC ICF & LHB Coaches as per RDSO Spec CG 18001 Rev 02 as the relaxed condition of waiver from performance period has been changed to original Eligible Criteria by the competent Authority.”

3. Learned counsel for the petitioner submits that up-gradation of the petitioner from “Developmental Vendor” to “Approved Vendor” was pursuant to an application of the petitioner, after following the due process and taking into account the applicable conditions stipulated in the Vendor Directory which specifically provides for such up-gradation.
4. The letter dated 22.12.2023, whereby the petitioner’s status was upgraded from “Development Vendor” to “Approved Vendor” reads as under:

“RAIL COACH FACTORY, KAPURTHALA

Date 22.12.2023

No.MD34431

*M/s RT Vision Technologies Pvt. Ltd.,
Plot No. G-97, Site-5, UPDIDC KASNA INDUSTRIAL AREA,
Greater Noida, Gautam Buddha Nagar,
Uttar Pradesh-201308*

Sub: Up-gradation from Developmental Vendor to Approved Vendor in Vender Directory for Item ID:2400064, GPS Location based Address & Passenger Information System & LED Destination Boards in AC and Non AC ICF&LHB Coaches.

In existing RCF Vendor directory for subject item, there are sixteen developmental vendors with four approved vendors as on date.

As per current RCF Vendor Directory Rev-02, Clause 12, Corr-I, “Field performance of a developmental supplier will be watched for a period of 9 months from the coach turn-out date from Production Unit/ 15 months from date of supply of material, whichever is earlier”.



Competent authority has decided that for subject item, minimum performance period can be waived for vendors if a developmental vendor has supplied fifty coach sets to ICF/MCF/RCF.

Therefore, it is hereby requested that if a firm has supplied 50 c/sets of subject item to any of the PU of Indian Railways, kindly apply on UVAM portal for up-gradation from Developmental Source to Approved source and upload the following documents & follow conditions as mentioned below;

- 1. Application of inclusion/up-gradation shall only be accepted on UVAM portal.*
- 2. The vendor should have completed one developmental order of RCF/MCF/ICF/RDSO, successfully.*
- 3. Firm must have successfully supplied minimum specified cumulative quantity of respective item (minimum 50 c/sets) to ICF/MCF/RCF, within the period constituting current financial year and during the last consecutive three financial years.*
- 4. Date of R. Note issued by Stores shall be counted as the date of supply for this purpose.*
- 5. Vendor's overall performance as detailed elsewhere in RCF Vendor Directory (Vendor Performance Monitoring) shall also be considered.*

This has the approval of Competent Authority.

Dy.CME/DP”

5. Learned counsel for the petitioner submits that the abrupt downgrading of the petitioner *vide* the impugned order is unwarranted. It is further submitted that the same has been done without complying with the principles of natural justice since the petitioner was not even afforded an opportunity of hearing before the decision was taken. It is submitted that as a result thereof, the petitioner's participation in several upcoming tenders has been jeopardized.

6. Learned counsel for the petitioner draws attention to an order passed by Telangana High Court whereby in the context of an identical challenge,



the downgrading of the petitioner therein has been suspended by the concerned court. The said order *inter alia* reads as under:

“In view of the above submissions and since the impugned notice is not preceded by any notice or enquiry, it is a fit case to grant interim suspension of the impugned letter. Therefore, pending filing of the counter affidavit, there shall be interim suspension of the letter No.MCD34431 dated 22.03.2024.”

7. During the course of hearing, it transpires that the petitioner’s representation against the impugned communication dated 22.03.2024 has already been made to the Chief Design Engineer, Rail Coach Factory, Kapurthala, Punjab.

8. In the aforesaid facts and circumstances, it would be apposite to direct the concerned authority to decide the representation of the petitioner expeditiously after affording an opportunity of hearing to the petitioner and after taking into account the aforesaid order passed by the Telangana High Court. It is directed accordingly. Let a speaking order be passed on the petitioner’s representation as expeditiously as possible, preferably within a period of four weeks from today.

9. In the meantime, during the pendency of the aforesaid exercise, the impugned communication dated 22.03.2024 shall be kept in abeyance.

10. Needless to say, if the petitioner is aggrieved by the outcome of the aforesaid exercise and/ or the speaking order that may be passed thereupon, it shall be at liberty to take appropriate remedies under law.

11. The present petition, along with pending application/s, stands disposed of in the above terms.

MAY 28, 2024/cl

SACHIN DATTA, J