



\$~32

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

+ **W.P.(C) 8414/2024 & CM APPL. 34693-34694/2024**

NACOF

..... Petitioner

Through: Mr. Anupam Lal Das, Sr. Advocate
with Mr. Ujjwal Jha, Mr. Rohan
Gupta, Mr. Anirudh Singh, Advs.

versus

UNION OF INDIA & ORS.

.....Respondents

Through: Mr. Kirtiman Singh, CGSC with Mr.
Waize Ali Noor and Mr. Varun Pratap
Singh, Advocate for R-1
Mr. Vikrant N. Goyal and Mr. Rajat
Srivastava, Advs. for R-2

%

Date of Decision: 01st June, 2024

CORAM:

HON'BLE THE ACTING CHIEF JUSTICE

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

JUDGMENT

MANMOHAN, ACJ : (ORAL)

1. Present writ petition has been filed under Article 226 of the Constitution of India seeking quashing of the auction notice dated 26th April, 2024, bearing No. EST -13015/5/2023-ESTATE floated by Respondent Nos. 1 and 2 for establishment and operation of 'Janaushadhi Shop' at Safdarjung Hospital, Delhi. The Petitioner challenges the process of technical evaluation of its bid as the same has been rejected on the ground that "the



supporting documents for the JV are not complete”. The Petitioner seeks issuance of directions to Respondent Nos. 1 and 2 to review the bid documents submitted by the Petitioner.

2. Learned senior counsel for the Petitioner states that the Petitioner herein is a joint venture of National Federation of Farmers Procurement Processing and Cooperative of India Ltd. (‘NACOF’) and M/s Rockmed Pharma Pvt. Ltd.

3. He states that Respondent Nos. 1 and 2 floated the aforesaid tender and invited bids for establishment and operation of a 24 x 7 Janaushadhi shop for the purpose of selling generic drugs and items as approved in Pradhan Mantri Bhartiya Janaushadhi Scheme formulated by Department of Pharmaceuticals at Safdarjung Hospital. He states that the bid auction started on 26th April, 2024 and the assessment of the bid documents ended on 07th May, 2024. He states that the Petitioner duly submitted its documents for establishing its eligibility criteria alongwith its bid.

4. He states that on 27th May, 2024, the Petitioner learnt that Respondent Nos. 1 and 2 rejected the technical bid of the Petitioner and the only remark communicated to the Petitioner was that “the supporting documents for JV are not complete”. He states that the Petitioner has written separate representation(s) to the Respondents, however, no response has been received till date.

5. He states that presently one of the members of NACOF is running the Janaushadhi Kendra at Safdarjung Hospital since 14th February, 2019. He states that the said operator had been served with a termination notice dated 29th December, 2022, which was challenged in W.P.(C) 856/2023, however, the said challenge was thereafter withdrawn by the said operator. He states



that Respondents be directed to respond to the representation dated 27th May, 2024 and until the Petitioner receives a reply the current operator at the Janaushadhi Kendra be not disturbed and it be permitted to continue to run the shop.

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

7. We direct that Respondent Nos. 1 and 2 to consider the Petitioner's representation(s) dated 27th May, 2024 and dispose it of by a speaking order within two (2) weeks.

8. We are not inclined to entertain the prayer of the Petitioner seeking a direction to permit the present operator of Janaushadhi Kendra at Safdarjung Hospital to continue, pending the response of the Respondents to its representation. The present operator i.e., NACOF had approached this Court in W.P.(C) 856/2023, wherein it undertook vide order dated 10th April, 2024 to vacate the premises in case it is unsuccessful in the tender. The said undertaking dated 10th April, 2024 cannot be permitted to be over-reached in these proceedings. This relief also does not emanate from the prayers in the present writ petition and is therefore not maintainable.

9. With the aforesaid directions, the present petition and pending applications stand disposed of.

ACTING CHIEF JUSTICE

MANMEET PRITAM SINGH ARORA, J

JUNE 1, 2024/hp/MG