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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 8634/2024 CM APPL. 35353-54/2024

CM APPL. 64077/2024

M/S SHRINATHJI CHEMICALS

.....Petitioner

Through: Mr Mukesh Goyal and Ms Ayushi
Aggarwal, Advocates.

versus

UNION OF INDIA AND ORS

.....Respondents

Through: Mr Rakesh Kumar, CGSC, Mr Sunil
and Ms. Bhuwan Kalra, Advocates
for UOI.

Mr V K Garg, Sr Advocate with Mr
Kunal Bahri, Mr K S Rekhi, Mr Parv
Garg and Mr Pawas Kulshrestha,
Advocates for R3.

Ms Shweta Bharti, Ms Yashodhara
Burmon Roy, Mr Sumit J Malhotra,
and Ms Nikita Sharma for R4 GEM

CORAM:

HON'BLE THE ACTING CHIEF JUSTICE

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

ORDER

12.12.2024

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1. The petitioner has filed the present petition, *inter alia*, praying as
under:-

“a. Issue a writ, order or direction in the nature of
mandamus or any other appropriate writ, order or
directions thereby quashing the letter dated
29.05.2024 and letter dated 03.06.2024 issued by
respondent no. 2, in the interest of justice.

b. Issue a writ, order or direction in the nature of
mandamus or any other appropriate writ, order or
directions thereby directing the respondent no.2



toward 25% of the tendered quantity to the petitioner, in the interest of justice.”

2. It is the case of the petitioner that it was the only small scale enterprise that had participated in the tender floated by GeM portal for the procurement of 13,50,000 tubes of cream, ‘Lipsalve’.
3. The petitioner claims that in terms of the guidelines issued by the Government of India dated 23.03.2012 in regard to the Public Procurement Policy, it is mandated that the Government Departments and the Public Sector Undertakings shall procure a minimum of 20% of their annual value of the goods or services through micro and small enterprises. It is stated that the said quantity has since been enhanced to 25% by a notification dated 09.11.2018.
4. In the present case, the contract for supply of the entire tender quantity was awarded to respondent no.3, who had offered a price lower than that offered by the petitioner in the reverse auction process.
5. It is the petitioner’s case that notwithstanding that it was outbid by respondent no.3, at least 25% of the contracted quantity is required to be procured from it, as per condition no.5 of the Notice Inviting Tender.
6. This court was informed on 05.12.2024 that the entire quantity has been supplied by the respondent no.3 and, in view of the same, this court had expressed an opinion that no orders are required to be passed in this petition.
7. In the given circumstances, the learned counsel for the petitioner submits that the present petition be closed and this court may clarify that it has not examined the merits of the petitioner’s claim.
8. In view of the above, the present petition is disposed of.



9. We clarify that we have not examined the petitioner's contention regarding its right to be awarded at least 25% of the bid quantity notwithstanding that respondent no.3 had offered a lower price. It is also clarified that all the rights and contentions of the parties are reserved. Pending applications also stand disposed of.

VIBHU BAKHRU, ACJ

TUSHAR RAO GEDELA, J

DECEMBER 12, 2024

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Click here to check corrigendum, if any