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

\+ W.P.(C) 12217/2024 & CM APPLs. 50834-50835/2024

M/S GLOBAL VENTURES .....Petitioner

Through: Mr. Gaurav Verma, Mr. Anant Sagar Tiwari and Ms. Mohini Chaubey, Advocates.

versus

GOVT. NCT OF DELHI & ORS. .....Respondents

Through: Mr. Satyakam, ASC with Mr. Pradyut Kashyap, Advocate.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

% **03.09.2024**

1. The Petitioner- M/S Global Ventures was awarded a GEM Contract having no. GEMC- 511687702369249,[1] by Respondent No.1, for manpower deployment of 90 (90+6) multi-tasking staff[2] and drivers. As per the terms of the GEM Contract, Buyer/Respondent No.1 was entitled to retain the contractual staff already deployed under the previous contract. Accordingly, the Petitioner was instructed to retain the manpower that had been previously employed. Consequently, approximately 60% of the total workforce required to be deployed by the Petitioner consisted of the contractual staff carried over from the earlier contract.

2. In this context, the Petitioner was required to deploy the specified

[1] "GEM Contract"
[2] "MTS"

manpower by 1st August, 2024. However, the Petitioner failed to meet this obligation. As a result, the GEM Contract was terminated by Respondent No.1 through the communication dated 16th August, 2024.[3] This termination was carried out in accordance with the terms of the GEM Contract, which entitles the Buyer/Respondent No.1 to impose certain deductions. The relevant portion of the Impugned letter of termination reads as follows:

2. The process for award of a new contract through GeM was initiated timely by the department in accordance with the guidelines issued by the Finance Department from time to time on the subject matter. In response to GeM contract No. GEMC 511687702369249 dated 22.07.2024, M/s Global Ventures was requested vide this office letter No. F.3(86)/FSL/Estt./Outsourcing/2022-23/99 dated 22.07.2024 for submission of his acceptance of said contract on the usual terms and conditions generated on GeM portal. Subsequently, M/s Global Ventures submitted his acceptance vide letter dated 23.07.2024 on the terms & conditions of GeM contract, but he has neither deployed the required outsourcing manpower till date nor complied with the terms & conditions of GeM contract as detailed hereunder:

Sl. No.	Descriptions of terms & conditions of the contract generated on GeM portal	Status of compliance by the M/s Global Ventures
1.	Deployment of 96 (90 +6) (MTS & Drivers) outsourcing manpower in FSL, Delhi w.e.f. 01.08.2024	Not deployed the manpower till date
2.	After award of contract, successful bidder can upload scanned copy of the DD in place of PBG and has to ensure delivery of hard copy to the original DD to the Buyer within 15 days of award of contract	Not complied with it till date.

3. As per the terms & conditions of the GeM contract, deductions can be imposed by the Buyer for the following:

Sl. No.	Descriptions	Deductions
1.	Non-deployment of total manpower mentioned in the contract as per the date of joining	Upto 15 days, 1 day wages of the resources which are not deployed, per day. Beyond 15 days cancellation of the contract with cancellation charge @ 10% of the order value.

In view of the positions explained in the foregoing paragraphs, you are hereby informed that Competent Authority has decided to cancel your contract with immediate effect due to violation of given terms & conditions of the GeM contract as detailed at table of para-2, which will be initiated at GeM Portal too.

This issues with the approval of Director, FSL.

3 "Impugned letter"

3. The Petitioner has challenged the termination of the GEM Contract on the grounds that the Respondents' actions were arbitrary and unreasonable, warranting this Court's intervention under Article 226 of the Constitution of India, 1950,[4] to quash the same. Counsel for Petitioner submits that failure to deploy the manpower, within 15 days from the date of joining, cannot be solely attributed to the Petitioner. As per Clause 4.1(x) of the GEM Contract, the Petitioner was to retain the contractual staff deployed by the previous service provider. Furthermore, they also had responsibility for ensuring qualification eligibility of such resources. The said clause reads as follows:

> *"x. In case if the Buyer has selected the option in the bid for retention of existing resource/resources of previous service provider, then service provider shall retain those resources. In such cases, the Buyer shall be responsible for ensuring the qualification eligibility of those resources as per the contract requirement. Any extra costs incurred by Service provider for onboarding those resources on their payroll shall be borne by Service Provider. Service Provider shall include any such costs in the service charges quoted by them during the bid participation."*

Additionally, under Clause 4.2(ix) of the GEM Contract, the Petitioner was obligated to undertake the police verification, as well as character and antecedents' verification, of the manpower to be deployed. Given these contractual obligations, it was crucial for the Petitioner to carry out the verification and documentation process for all the manpower; failure to do so would constitute a breach of the GEM Contract. The Petitioner had informed the manpower previously employed, to submit all necessary statutory documents required for registration and verification. However, they did not comply with this request. This lack of cooperation was

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[4] "Constitution"

promptly communicated to Respondent No. 1 through a letter dated 31st July, 2024, in which the Petitioner also sought an extension of time until 11th August, 2024, to complete the process. Despite these efforts, the previous contractual staff continued to be uncooperative, compelling the Petitioner to seek a further extension through another communication dated 11th August, 2024. Nevertheless, on 16th August, 2024, Respondent No. 1 proceeded to terminate the GEM Contract. Subsequently, the Petitioner completed the verification process on 20th August, 2024, and communicated a list of proposed candidates to the Respondents on 21st August, 2024. Despite fulfilling the compliance requirements, the manpower deployed by the Petitioner was denied entry by Respondent No. 1. The Petitioner argues that, since the Respondents had specifically instructed the retention of manpower previously engaged by the former contractor and given that these personnel did not cooperate with the verification and documentation process, the resulting delay should not be solely attributed to the Petitioner.

4. Additionally, it is pointed out that GEM Contract was terminated because the Petitioner failed to submit a copy of the Demand Draft in place of Performance Bank Guarantee within the specified timeframe. The Petitioner argues that the Performance Bank Guarantee in favour of Respondent No. 1 was secured on 31st July, 2024, but the documentation could not be delivered to the Respondents due to ongoing issues with the verification process of the contractual staff from the previous contract. In these circumstances, the issue was not significant enough to warrant cancellation, and terminating the GEM contract on this ground was arbitrary and unreasonable.

5. Upon considering the contentions of the parties, it is apparent that the

subject matter of the present petition revolves around a purely contractual dispute stemming from the alleged non-fulfilment of contractual obligations by the Petitioner. In matters that are inherently contractual in nature, where the parties' adherence to the specific terms and conditions of the agreement is in question, this Court exercises restraint in invoking its jurisdiction under Article 226 of the Constitution of India. While there are instances where this Court has entertained writ petitions involving contractual disputes, such intervention is called for in cases where there is clear evidence of state action that is arbitrary, capricious, or unreasonable, thereby necessitating judicial review to prevent a miscarriage of justice. However, based on the facts presented and the arguments advanced by the parties, no such grounds for arbitrariness or unreasonableness appear to exist in the current matter that would warrant this Court's interference under its extraordinary jurisdiction.

6. Moreover, the submission made by Mr. Satyakam, learned Additional Standing Counsel (ASC) for the Respondents, raises serious concerns regarding the Petitioner's conduct in relation to the contract. He points out that the Respondents received multiple communications from 81 individuals who were the contractual employees under the erstwhile contractor, alleging that the Petitioner demanded a deposit of INR 42,000/- from them as a precondition for their retention under the GEM Contract. This allegation, if true, constitutes a significant deviation from the terms of the contract and casts doubt on the Petitioner's bona fides in fulfilling its obligations. Given these circumstances, the Respondents' lack of confidence in the Petitioner appears to be justified. The Respondents have also argued, with merit, that the manifest breach of contract by the Petitioner — including the delay in

deploying manpower, failure to submit the Performance Bank Guarantee within the stipulated timeframe, and the alleged demand for additional payment from the existing contractual staff — renders it unreasonable to compel them to continue their contractual relationship with the Petitioner.

7. Thus, considering the nature of the dispute, which is premised on factual disputes relating to alleged breaches of contract and misconduct by the Petitioner, this Court finds no compelling reason to intervene. Therefore, in the absence of any manifest arbitrariness or unreasonableness in the Respondents' actions, the present petition does not warrant interference by this Court.

8. In view of the above, the Court finds no merit in the present petition. Dismissed.

9. Disposed of along with pending applications.

SANJEEV NARULA, J

SEPTEMBER 3, 2024
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