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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 14739/2024 & CM APPLs. 61895/2024, 61896/2024, 61897/2024**

M/S TRICOLOR INDIA SCHAUSPIEL PVT LTDPetitioner

Through: **Mr. Gautam Khazanchi, Mr. Pratibhanu Singh Kharola and Ms. Suruchi Jaiswal, Advocates.**

versus

INDIA TOURISM DEVELOPMENT CORPORATION LTD. & ORS.Respondents

Through: **Mr. Chetan Sharma, ASG with Mr. Krishan Kumar, Mr. Amit Gupta, Mr. Saurabh Tripathi, Mr. Seemant K. Garg, Mr. Shubham Sharma, Mr. Vikramaditya Singh and Mr. Nitin Pal, Advocates for R-1 with Mr. Manoj Kumar and Mr. Shyam Krishnan, DGM (ITDC), Mr. Sirajnddin, Sr. Manager, ITDC. Mr. Ripudaman Bhardwaj, CGSC with Mr. Kushagra Kumar and Mr. Abhinav Bhardwaj, G.P. for R-3.**

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER
21.10.2024

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1. The Petitioner, through the instant petition seeks setting aside of the decision of India Tourism Development Corporation Ltd.¹ communicated to

¹ "ITDC"



the Petitioner through email communications dated 30th September, 2024, 4th October, 2024 and 7th October, 2024.² ITDC issued a tender bearing no. ITDC / SEL / Rashtrapati Bhavan / 2024 for “Implementation of Sound and Light/ Multimedia Show at Rashtrapati Bhavan. New Delhi.”³ The selection criteria as provided in the Tender *inter alia* stipulated that in case a scriptwriter has won any National award they would be entitled to an additional five marks. The Petitioner’s technical score was capped at 33 out of 40, as communicated *vide* email dated 30th September, 2024. The relevant portion of the decision reads as follows:

On Mon, 30 Sept, 2024, 11:20 Syam Krishnan Gopalakrishnan, <syamkrishnan@itdc.co.in> wrote:
आदरणीय महोदय/महोदया,
Respected Sir/Madam,
नमस्कार !!Greetings of the Day !

This has reference to your tender submitted for the subject work & opened on 24.07.2024. Based on the evaluation of technical bid documents and shortfall/deficient documents submitted by you, you have got 33 marks out of 40. Accordingly, you are eligible for the Thematic Presentation as per schedule already communicated to you.

Maximum 45 minutes shall be given for the aforesaid presentation. It is also requested to submit the soft copy and if possible one coloured hard copy of the concept prior to the presentation may also be provided.

धन्यवाद एवं सादर, /Thanks & Regards,

On behalf of TEC, ITDC

2. The Petitioner asserts that the 33 marks awarded during the technical evaluation do not accurately correspond with the tender terms, specifically arguing that an additional 5 marks should have been granted on account of Mr. Khan, one of the nominated scriptwriters, being a recipient of National award. The Petitioner emphasizes that under the tender conditions, such recognition merits additional points. However, the ITDC, in its communications dated 4th October, 2024 and 7th October, 2024, informed the

² “Impugned Communications”

³ “Tender”



Petitioner that the award certificate submitted was not recognized as a National award by the Government of India, thereby declining to award the additional marks. The Petitioner maintains that the Sangeet Natak Akademi Award for the year 2022-23, received by Mr. Khan, is a National award under the Tender criteria and should have been duly considered, thereby warranting a revision of the technical score.

3. Mr. Chetan Sharma, Additional Solicitor General of India, strongly controverts the Petitioner's contention that the awards conferred by Sangeet Natak Akademi Awards qualify as 'National awards' under the tender criteria. He submits that Sangeet Natak Akademi, is an autonomous body under the Ministry of Culture, Government of India and the awards conferred by them, do not hold the status of National awards. Furthermore, Mr. Sharma asserts that even if the Petitioner were to be awarded the additional 5 marks claimed, it would not alter the overall outcome. He points out that even if the Petitioner were awarded the additional 5 marks, it would only elevate their position to L2, without altering the overall outcome. The entity ranked L1 holds a significant lead with a total score of 92.06 marks, following the comprehensive evaluation process, which included technical assessment, thematic presentation, and financial bid evaluation. Therefore, the Petitioner would still not emerge as the successful bidder despite the adjustment in marks. To provide further clarity, Mr. Sharma informs the Court that upon completion of the three-stage tender evaluation process, the entity ranked L1 was awarded 92.06 marks, while L2 received 82.24 marks. The Petitioner, ranked L3, was conferred 81.5 marks. Thus, even with the additional 5 marks claimed by the Petitioner, their position would only improve to L2, still leaving them significantly behind the L1 bidder.



4. In view of the foregoing, it is evident that even if the Petitioner were to be awarded the additional 5 marks they seek, their ranking would merely raise to 'L2', which would not place them in a position to secure the contract. Given that the entity ranked 'L1' maintains a substantial lead with a score of 92.06, the Petitioner's improved score would still fall significantly short. Therefore, no tangible benefit would accrue to the Petitioner from the relief sought. In light of this, and without delving further into the merits of the controversy raised in the petition, the Court finds no reason to entertain the matter.

5. It is clarified that the Petitioner's complaint dated 14th October, 2024 to Independent External Monitors, which is presently under consideration, shall be examined on its own merits and a decision shall be taken thereon in accordance with law, unaffected by the present outcome.

6. Dismissed along with pending applications.

SANJEEV NARULA, J

OCTOBER 21, 2024

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