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

+ **W.P.(C) 12700/2018, CM APPLs. 54/2019 & 42059/2023**

J. R. CREATIONS ADVERTISERS PVT. LTD.Petitioner

Through: **Mr.Jagdev Singh and Mr.Sachin
Saini, Advs.**

versus

NORTH DELHI MUNICIPAL CORPORATION AND ORS.

.....Respondents

Through: **Ms.Beenashaw Soni, SC with
Ms.Latika Malhotra, ASC for MCD.
Ms.Bhavna Arora, Adv for R-3.**

CORAM:

HON'BLE MR. JUSTICE PURUSHAINDR KUMAR KAURAV

ORDER

% **15.07.2024**

1. The petitioner seeks for the following reliefs:-

"A. Issue a writ / order / direction in the nature of mandamus or any other appropriate writ / order / direction directing the respondents to issue no dues certificate and / or permit the petitioner to participate in the tender process and apply for allotment of tenders for advertisement rights;

B. In the alternative stay the aforesaid tender process during the pendency of the present petition;

C. Pass any other orders/directions as this Hon'ble Court may deem fit and proper in the circumstances of the present case."

2. The facts of the case indicate that there are certain litigations going on between the petitioner and the respondents. On 02.11.2018, the respondents seem to have issued notice inviting tenders for various sites for advertisement under the jurisdiction of respondent no.3.



3. The petitioner appears to have submitted letters requesting the respondents to issue no dues certificate in its favour enabling it to participate in the aforesaid tender process. Since the same was one of the conditions which were not being fulfilled, therefore, the petitioner had to approach this Court by way of the instant writ petition seeking the aforesaid reliefs.

4. When the matter was earlier taken up for hearing on 27.11.2018, the Court passed the following directions:-

"W.P.(C) 12700/2018

2. *The petitioner's grievance in this case is that, as furnishing of No-Dues Certificate from the Municipal Corporations was mandatory, to allow him to participate in the tender process floated by the Notice Inviting Tenders on 2nd November, 2018, he has been submitting letters from 13th November, 2018 onwards, to the various municipal corporations, requesting them for issuance of No-Dues Certificate, but these applications have met with no response.*

3. *It is in these circumstances, that the petitioner has approached by means of the present writ petition this Court, praying for issuance of No-Dues Certificate to him, so as to enable him to participate in the tender process which is scheduled to commence tomorrow. An interlocutory application being CM APPL. No.24496/2018, praying for a permission, to the petitioner, to participate in the tender process, has also been filed.*

4. *The learned counsel for the respondent, on the other hand, submits that the petitioner has no enforceable right in law, as there are several different pending cases against him which are subject matter of arbitration proceedings as well as other legal proceedings.*

5. *Mr. Jagdev Singh, learned counsel for the petitioner would submit, per contra, that various other persons, against whom similar claims are pending, have been issued No-Dues Certificate and are being allowed to participate in the tender process. He, therefore, submits that there is no justification to discriminate against his client.*

6. *In the circumstances, issue notice to the respondent to file their response within one week from today with an advance copy to the petitioner who may file rejoinder thereto, if any, within three days thereof.*

7. *Renotify the writ petition for hearing and disposal on December, 2018 at the end of the Board.*

CM APPL. No.49361/2018

8. *This application seeks, as already noted hereinabove, an ad*



interim order permitting the petitioner to participate in the tender process, scheduled to commence on 29th November, 2018.

9. The petitioner has approached this Court practically on the eve of the date of opening of tender. The parties who have been permitted to participate in the tender process have not been impleaded. For these reasons, as also because it is not in dispute that furnishing of No-Dues Certificate is mandatory for participating in the tender process, it is not possible for this court to grant any ad interim order permitting the petitioner to participate in the tender process without furnishing No-Due Certificate.

10. However, in view of the facts as already noted hereinabove, limited interim protection is granted, to the extent that the respondents are permitted to proceed with the tender process, but no final award of tender would be effected without securing leave of this Court.

11. CM stands disposed of accordingly.

12. A copy of this order be given dasti under the signatures of the Court Master."

5. It is thus seen that in pursuance of the directions passed by this Court on 27.11.2018, the tender in question has not progressed at all. However, after 2018, considerable time has been elapsed. The nature of work which was sought to be advertised then may have undergone sufficient change.

6. Insofar as the issue pertaining to whether the respondent would be required to continue with the aforesaid tender, at this stage, is such, which will have to be decided by the respondents on evaluation of various facts and circumstances.

7. At this stage, if the respondents are allowed to proceed with the tender which was floated in the year 2018, the same would not lead to any useful purpose.

8. Learned counsel appearing on behalf of the respondents also subscribed to the aforesaid expression. She, therefore, submits that under the facts of the present case, the respondents be permitted to float a fresh tender with fresh terms and conditions. She submits that the respondents have also



filed an application seeking the aforesaid liberty.

9. Having considered the submissions made by the learned counsel for the parties and in view of the fact that the tender in question which remained stayed was issued in the year 2018 and substantial time has elapsed, the Court finds it appropriate to set aside the said tender and grants liberty to the respondents to float a fresh tender, if need arises, along with fresh terms and conditions.

10. If the petitioner has any grievance with respect to the fresh tender to be issued by the respondents, the same shall be dealt with in accordance with law.

11. Reserving all rights and contentions of the parties, the instant writ petition along with pending applications, stands disposed of.

PURUSHAINDR KUMAR KAURAV, J

JULY 15, 2024/MJ