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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION NO. 1272 OF 2025

Perto India Pvt. Ltd.

.. Petitioner

Versus

Union of India & Ors.

.. Respondents

Mr. Rishabh Agrawal i/by Cygnus Legal for petitioner.

Mr. Mohamedali M. Chunawala for respondent no.1.

Mr. Pheroze Mehta with Mr. Nainesh N. Amin & Mr. Priyam Amin i/by N. N. Amin & Co. for respondent no.2.

Mr. Shlok Parekh with Ms. Sandhya Iyer & Mr. Neel Mehta i/by Vaish Associates for respondent no.4.

Mr. Nimay Dave with Ms. Shalaka Patil, Mr. Ankit Pathak i/by Trilegal for respondent no.6.

**CORAM: ALOK ARADHE, CJ. &
SANDEEP V. MARNE, J.**

DATE: 26th JUNE, 2025

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ORAL ORDER [Per Chief Justice]:

1. The petitioner claims to be a manufacturer and supplier of Automatic Teller Machines (ATM) and Cash Dispenser Machines and maintains the same. In this writ petition, the petitioner has assailed the validity of the condition and eligibility criteria laid down in Request for Proposal (RFP) dated 9th December, 2024 insofar as it permits participation of Original Equipment Manufacturers and Authorized Dealers.

2. The facts giving rise to filing of this petition, briefly stated, are that a RFP was issued on 9th December, 2024 for supply, installation and maintenance of 3000 ATMs under end

to end outsourced model for a period of seven years, extendable for one year. Clause 7.2 of the RFP permits participation of Original Equipment Manufacturers and Authorized Dealers. The respondent no.2 processed the RFP and issued the work order on 6th March, 2025. Thereafter, the instant writ petition was filed on 18th March, 2025 seeking the reliefs as stated supra.

3. Learned counsel for the petitioner fairly submits that the petitioner did not participate in the aforesaid RFP process. It is, however, submitted that the petitioner was corresponding with the Union Bank of India and, therefore, the writ petition was filed on 18th March, 2025.

4. We have considered the submissions made by the learned counsel for the petitioner and have perused the record.

5. The jurisdiction of this Court under Article 226 of the Constitution of India is not only extraordinary but discretionary in nature. The Supreme Court in the case of ***State of U. P. Vs. Arvind Kumar Srivastava, (2015) 1 SCC 347*** has held that if a conduct of a party approaching the Court amounts to fence sitting, such a party is not entitled to any relief in exercise of extraordinary discretionary jurisdiction of this Court under Article 226 of the Constitution of India.

6. In the instant case, the RFP was issued on 9th December, 2024. The petitioner was aware of Clause 7.2 contained in the aforesaid RFP. However, the petitioner waited and permitted the Union Bank of India to complete the process of

RFP and to issue the work order on 6th March, 2025. The writ petition was filed on 18th March, 2025, at the first instance without even disclosing that the work order was already issued. Thereafter, an application for amendment was moved, which was allowed on 29th April, 2025. The conduct of the petitioner, in the facts and circumstances of the case, amounts to fence sitting and, therefore, the petitioner is not entitled to any relief in exercise of extraordinary discretionary jurisdiction of this Court under Article 226 of the Constitution of India. Also, since petitioner has not participated in the RFP, it cannot question the conditions specified therein.

7. In the result, writ petition fails and is hereby dismissed.

(SANDEEP V. MARNE, J.)

(CHIEF JUSTICE)