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

+ **W.P.(C) 169/2023**

MS PRADEEP ENTERPRISES

.....Petitioner

Through: None.

versus

UNION OF INDIA & ORS.

.....Respondents

Through: Mr. Vikram Jetly, CGSC, Mr. Amit Acharya, GP and Ms. Shreya Jetly, Adv. for UOI.

CORAM:

HON'BLE MR. JUSTICE SACHIN DATTA

ORDER

% **17.03.2025**

1. The present petition has been filed by the petitioner seeking the following prayers –

“(a) direct the respondents to dispose of the representation dt. 19.7.2021, 23.09.2021, 11.12.2021 & 18.4.2022 and legal notice dt. 22.07.2022 filed by the petitioner which is annexed as Annexure P-1 and P-2 with this petition.

(b) direct the respondents to allow the petitioner firm to complete the work awarded under Tender CA no. GE/SP-43/2020-21”

2. A tender bearing tender ID 2020 MES 383442 1 was floated by the E-IN-C branch, Military Engineer Services (respondent no.3) on 05.10.2020 seeking bids for repair, rewiring, replacement of internal wiring, switch sockets, boards fitting/fixtures, replacement of old U/S tubelight with LED light in SMQ WAC, MAP QTR in Subroto Park, Delhi Cantonment for a consideration of Rs. 45,74,270/- (Rupees forty-five lakhs seventy-four thousand and two hundred and seventy rupees) [hereinafter ‘*the tender in question*’].



3. The petitioner participated in the aforesaid tender by submitting a bid on 29.10.2020 ; the same was accepted by the Garrison Engineer (AF) (respondent no.2) *vide* letter / communication dated 18.12.2020, consequent to which, the parties entered into a contract bearing CA NO GE/SP-43/2020-21 for carrying out the work under the tender.

4. In terms of the work order no.1 dated 06.01.2021 issued by the Garrison Engineer (respondent no.2), the date of handing over of the site in question (where the contractual work was to be carried out in terms of the tender in question) is 06.01.2021 and date of completion of the contractual work is 05.10.2021.

5. The stand of the petitioner, as brought out from the present petition, is that the site in question had been handed over to the petitioner in a piecemeal manner despite several communications / representations sent by the petitioner seeking hand over of the complete site in question including by way of communication(s) dated 19.07.2021, 23.09.2021, 11.12.2021 and 18.04.2022. Thereafter, a legal notice dated 22.07.2022 was issued by the petitioner to the respondent nos. 2-4 seeking hand over of the complete site in question along with payment of the petitioner's outstanding monetary entitlements in lieu of the work already carried out under the agreement.

6. In light of these facts, notice was issued by this Court *vide* order dated 09.01.2023.

7. In the counter affidavit dated 13.02.2023 filed on behalf of the respondents, it has been brought out that the petitioner had revoked its offer with respect to the tender in question *vide* two communications including a communication dated 06.01.2021 and an undated communication. It is further stated that the said communications had not been brought on record



by the petitioner and have now been appended as Annexure R-2 (Colly) to the counter affidavit filed on behalf of the respondents. The said communications are reproduced as under –

JAI MATA DI
PRADEEP ENTERPRISES
(APPROVED GOVT. CONTRACTOR)
Flat No. 93, Pocket-3, Sector-11, Dwarka, New Delhi-110075

Ref. No.

Dated 06/01/2021

To,

Garrison Engineer (AF)
Subroto Park
Delhi Cantt-110010

CA NO : GE/SP-43/2020-21

Dear Sir,

1. Reference your letter No 8120/SP-43/01/E8 dated 18 Dec 2020.
2. We revoke our offer against subject work.

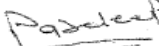
True copy


(Prateek Mathur, IDSE)
EE
Garrison Engineer

Enclosures : Original copy of Acceptance.

E-8 on file please


M/S PRADEEP ENTERPRISES





PRADEEP ENTERPRISES

(APPROVED GOVT. CONTRACTOR)

Flat No. 93, Pocket-3, Sector-11, Dwarka, New Delhi-110075

Ref. No.

Dated

To,

Garrison Engineer (AF)
Subroto Park
Delhi Cantt-110010

CA NO : GE/SP-43/2020-21

Dear Sir,

1. Reference your letter No 8120/SP-43/01/E8 dated 18 Dec 2020 and 8120 / SP-43/ 25 /E8 dated 06 Jan 2021.

2. In view of the administrative reasons, I hereby withdraw my offer against subject work.

Enclosures: Original copy of *True copy*
Acceptance
Garrison Engineer
Prateek Mathur, IDSE)

M/S PRADEEP ENTERPRISES

Pradeep

8. Thereafter, a handwritten communication / letter dated 21.01.2022 was sent to the respondent no.2 wherein the petitioner admitted to having cancelled the subject contract and undertook to not claim any “amount / compensation” in connection with the subject contract any further. The said communication reads as under –



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9716654243



JAI MATA DI

PRADEEP ENTERPRISES

(APPROVED GOVT. CONTRACTOR)

Flat No. 93, Pocket-3, Sector-11, Dwarka, New Delhi-110075

Ref. No. PE/SP-43/1106/20-21

Dated 21/01/22

To,

GIE (As for CC)
Subzotopunk
Delhi Centre

CAN O - GIE/SP-43/2020-21 - Repairing Rewiring
Replacement of Internal wiring - Switch Socket Board
Fitting of fixtures Replacement of old 15 tube light with
LED light in s.m.o. AC map etc Subzotopunk area of
A.E. Am-2 under JETP Subzotopunk Delhi Centre
Sd/-

① Ref our letter NO PE/SP-43/1103/20-21
dated 15/12/2021.

② I hereby apologise that, due to clerical error
have dispatched a letter under reference. We are
aware that this Contract is cancelled with our consent on
06-01-21 and all correspondence with the Subject Cft
are null and void. I ~~understand~~ ^{fully} that I will not be claim
any amount / compensation against Subject Contract in future.

Copy to:- H.O. CWF (AF) Pulam
H.O. CE WAC (AF) Pulam

(Prateek Mathur, IDSE)
EE
Garrison Engineer

Yours faithfully
M/s. Pradeep Enterprises
Pradeep



9. During the course of hearing, learned counsel for the respondent has also drawn the attention of this Court to order dated 16.02.2023 passed by this Court wherein it has been observed as under –

“2. Ld. counsel for the Respondent submits that he has filed the counter affidavit, which would reveal that the Petitioner has indulged in gross concealment of the material facts. Ld. counsel for the Petitioner seeks permission to file a rejoinder. Let the same be filed within 6 weeks. Submission of concealment shall be considered when the matter is finally heard.”

10. Even thereafter, the petitioner has been granted two opportunities to file a rejoinder *vide* order dated 29.08.2023 and 29.04.2024, however, no rejoinder has been filed till date. Furthermore, no appearance has been entered on behalf of the petitioner since the last two dates.

11. In the aforesaid circumstances, and on account of non-appearance of the petitioner, the present petition is dismissed.

SACHIN DATTA, J

MARCH 17, 2025/dn