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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 16936/2025, CM APPL. 69632/2025 & CM APPL. 69633/2025**

BAJAJ HEALTHCARE LIMITED

.....Petitioner

Through: Mr. Rajsekhar Rao, Senior Advocate
with Ms. Archana Sahadeva, Mr. Ajay
Singh, Mr. Stebin Mathew, Ms. Dishya
Pandey and Mr. Zahid Laiq Ahmed,
Advocates.

versus

UNION OF INDIA & ANR.

.....Respondents

Through: Mr. Akshit Mohan, GP with Mr. Aman
Naqvi, Advocate for R-2.
Mr. Shlok Chandra, Standing Counsel
with Mr. Parikshit Singh Bhati,
Advocate for ESIC.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

ORDER

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10.11.2025

1. Heard the learned counsel for the parties.
2. Challenge in this petition filed under Article 226 of the Constitution of India has been made to a communication made by respondent no.2 to the petitioner by means of the e-mail dated 08.10.2025, where, on two counts, the items quoted by the petitioner-firm pursuant to the subject tender, have been recommended as 'not eligible'.
3. It has been stated by learned counsel for the petitioner that prior to the impugned e-mail communication dated 08.10.2025, the petitioner was required to explain the alleged deficiencies in its bid to which the petitioner submitted its reply, however while taking the impugned decision as contained in the e-mail communication dated 08.10.2025, the explanation submitted by the petitioner

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does not appear to have been considered or taken into account and further that the impugned communication also does not disclose any reason for the respondent no.2 to have arrived at the conclusion that the petitioner's bid is to be recommended as 'not eligible'.

4. Learned counsel representing the respondent no.2, which is the tendering authority, however attempted to justify the impugned e-mail communication dated 08.10.2025 by pointing out that some reasons are given for holding the petitioner's bid to be 'non-eligible'.

5. If we peruse the e-mail communication dated 08.10.2025, what we find is that the explanation submitted by the petitioner has not even been mentioned, much less considered, by the tendering authority. It is needless to say that every administrative authority, may be in a tender related issue, is expected to give reasons, especially once some explanation is called for to be submitted by the bidder. However, in the instant case, we find that no reasons have been assigned holding the petitioner's bid as "not eligible". The impugned e-mail communication even does not discuss the same.

6. If the committee concerned entrusted with evaluation of the bids has considered the explanation submitted by the petitioner, such consideration ought to have been reflected either in the minutes of the meeting of the committee or in the communication based on the decision taken in such meeting.

7. In absence of the reasons in the e-mail communication or even otherwise in the decision of the committee concerned, we provide that the respondent no.2 shall take decision afresh into the issue before the rates for supply of items pursuant to the subject tender are freezed.

8. At this juncture, learned counsel for the petitioner prays that the respondent no.2 may be directed to provide an opportunity of hearing, however providing opportunity of hearing in such matters, would not be appropriate for



as we are of the opinion that requirement of observance of Principles of Natural Justice would be met in case tenderer (petitioner) is permitted to represent his case either by way of furnishing explanation or by way of making any other representation. Thus, while declining the said prayer made by the learned counsel for the petitioner, we permit the petitioner to make short written submissions to the respondent no.2, which shall be furnished by today. The respondent no.2 thereafter shall take appropriate decision in terms of the tender conditions and law as also by taking into consideration the observations made hereinabove.

9. We also direct that the decision under challenge herein shall abide by the decision which may be taken under this order.

10. The writ petition stands disposed of finally in the aforesaid terms.

11. If the petitioner still feels aggrieved by the fresh decision to be taken, it will be at liberty to challenge the same.

DEVENDRA KUMAR UPADHYAYA, CJ

TUSHAR RAO GEDELA, J

NOVEMBER 10, 2025

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