



\$~29

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

%

Date of Decision: 27.03.2026

+ W.P.(C) 3938/2026

SHRI JITENDRA SHARMA

.....Petitioner

Through: Mr. Pawan Kumar Singh, Adv.

versus

DELHI TECHNOLOGICAL UNIVERSITY AND ORS

.....Respondent

Through: Mrs. Avnish Ahlawat, SC, Mr. Nitesh Kumar Singh, Ms. Aliza Alam and Mr. Mohnish Sehrawat, Advs. for R-1 & R-3.

Mr. Shikhar Sardana and Mr. Ajay Singh, Advs. for R-2.

CORAM:**HON'BLE MR. JUSTICE V. KAMESWAR RAO****HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA****MANMEET PRITAM SINGH ARORA, J.(ORAL)****CM APPL. 19247/2026**

1. Exemption is allowed, subject to all just exceptions.
2. The application stands disposed of.

W.P.(C) 3938/2026 CM APPL. 19246/2026

3. The present petition has been filed under Article 226 of Constitution of India with the following prayers:

“a) Issue order, direction or writ in the nature of mandamus or any



other appropriate writ for setting aside the consolidated result dated 28.01.2026 of the Technical Bid of the bidders uploaded on GEM Portal of the respondent No.1

b) Issue further order, direction or writ in the nature of mandamus or any other appropriate writ declaring clause 2.1 of the NIT to be arbitrary and illegal;

c) Issue further order, direction or writ in the nature of mandamus or any other appropriate writ for setting aside the award of contract for work dated 02.03.2026 passed by the respondent No.1 in favour of the respondent No.2;

d) Issue further direction, order or writ in the nature of mandamus or any other appropriate writ for starting fresh bidding process for the work and publishing that on the GEM Portal of respondent No.1 after taking into consideration the directions, orders and writ issued by this Hon'ble Court

e) Pass any other writ, order(s) or direction(s) as this Hon'ble Court may deem fit and proper in view of the above facts and circumstances of the case in favour of the Petitioner and against the Respondents, in the interest of justice.”

4. The case set up the by the learned counsel for the Petitioner is as follows:

4.1. Respondent No.1 issued a Notice Inviting Tender [‘NIT’] on the GeM portal vide Bid No. GEM/2025/B/6867440 dated 07.11.2025, inviting bids for providing sanitation/housekeeping services, sweeping of roads and disposal of garbage at various campuses of Respondent No.1.

4.2. Learned counsel for the Petitioner states that in September 2025 and October 2025, Respondent No.1 floated NITs for the same work on similar terms. Many bidders (including Petitioner) participated, but bids were



allegedly rejected at the initial technical stage, and the bid was automatically extended, culminating in the present bid dated 07.11.2025.

4.3. He states that on a conjoint reading of the Clause 3.1 of the NIT (Qualification of the Bidder), which states that the bidder should be registered as a Company/Firm/Society/Trust/Nigam and the bid documents dated 07.11.2025 uploaded on GeM, including the requirements reflected at serial no. 15¹, the tender appeared open to registered entities fulfilling the technical requirements and was not confined only to Government sellers.

4.4. He states that although 343 bidders participated in the tender process, the technical bids of 342 bidders, including that of the Petitioner, were rejected at the technical stage.

4.5. He states that only the bid of Respondent No.2, namely Uttarakhand Purv Sainik Kalyan Nigam Limited, a PSU², was found technically qualified, as reflected on the GeM portal.

4.6. He states that the disqualification of the Petitioner was communicated to him through a message dated 09.01.2026 uploaded on the GeM portal. The Petitioner thereafter submitted a representation through the portal on 11.01.2026 seeking reasons for disqualification at the technical stage.

4.7. He states that Respondent No.1 responded to the said representation on 27.01.2026 stating that the Petitioner did not meet the eligibility criteria under Clause 2.1 of the NIT (Eligible Bidders), which restricts participation to Government agencies or subsidiaries fully or partially owned by Central/State Government or their PSUs.

¹ Mentioned in Annexure P-4 at page no 83 of the paper book

² Public Sector Undertaking



4.8. He states that a consolidated technical result dated 28.01.2026 was uploaded on the portal, wherein the technical bids of 342 bidders were disqualified and only Respondent No.2 was shown as technically qualified.

4.9. He states that Respondent No.1 thereafter opened the financial bid of the sole technically qualified bidder and awarded the contract on 02.03.2026 [‘impugned award’] in favour of Respondent No.2

4.10. He submits that Clause 2.1 of the NIT, being restrictive in nature, is arbitrary and cannot be construed or applied so as to override the broader qualification clause contained in Clause 3.1, read with the stipulation at Serial No. 15 of the bid document uploaded on the portal, which, according to the Petitioner, indicated wider participation by registered entities fulfilling the prescribed requirements.

It is further submitted that the disqualification of the Petitioner along with 342 bidders on the basis of Clause 2.1 is ex facie arbitrary, discriminatory and non-transparent, and is vitiated as violative of Article 14 of the Constitution of India as well as the settled principles governing fairness, natural justice and competitive bidding in public procurement, particularly when governmental policy professedly encourages participation of MSMEs and start-ups.

4.11. He submits that the award of contract to a sole technically qualified bidder is contrary to the General Financial Rules, 2017. In this regard, reliance is placed on Rules 184 and 201 to urge that public procurement must ordinarily ensure adequate competition and that award in a single-bid scenario defeats the spirit and scheme of the said Rules. It is additionally urged that the Respondents have failed to comply with Rule 166 relating to



single tender enquiry. The Petitioner further submits that the bid document itself stipulated that a minimum of three bids was required³ to disable automatic bid extension, and therefore the impugned award, based on a sole eligible bid, is unsustainable.

4.12. On the financial aspect, it is submitted that Respondent No.2 has quoted a service charge of 4.5%, which is excessive. The Petitioner asserts that it quoted 3.85%, stated to be the minimum service charge reflected in the bid document, and further points out that the existing service provider is allegedly operating at a service charge of 0.85%. It is contended that acceptance of the bid at 4.5% without negotiation results in avoidable loss to the public exchequer and is contrary to Rule 173(XX)(c) of the General Financial Rules, 2017.

5. Mrs. Ahlawat, learned counsel for the Respondent appears on advance service.

5.1. She states that the present petition is a proxy litigation filed on behalf of the existing private contractor. She states that currently the Petitioner's wife is rendering the contractual services through her business concern and the intent behind filing this petition is to ensure continuation of the exiting contractor.

5.2. She states that the Petitioner was disqualified in light of the Clause 2.1 of the NIT, which restricts participation to Government agencies or subsidiaries fully or partially owned by Central/State Government or their PSUs. She states that conditions enlisted in Clause 3.1 of the NIT has to be

³ Mentioned in Annexure P-4 at serial no. 17, at page no 84 of the paper book



read in the context of Clause 2.1 and therefore, the Petitioner was not eligible to participate.

5.3. She also states that the petition is barred by delay and laches as it has been filed after undue delay at a point where Respondent No. 2 is scheduled to take over the service w.e.f. 01.04.2026.

6. In response, learned counsel for the Petitioner states that there is no dispute that the Petitioner's wife's business concern is rendering the existing contractual services, however, this fact is irrelevant. He also clarifies that though the Petitioner is a sole proprietor, the said firm is registered as a Micro Enterprise vide certificate no. UDYAM-DL- 10-0006968. He states that the time taken for approaching the Court after 28.01.2026 is not unduly long and therefore there is no delay and laches.

7. This Court has heard the learned counsel for the parties and perused the record.

8. The present writ petition has been filed for seeking judicial review of the award of the NIT. The parameters of interference in tender matters are settled. In this regard, it would be apposite to refer to the judgment of the Supreme Court in **Jagdish Mandal v. State of Orissa**⁴. The relevant portion in reproduced as under:

“22. Judicial review of administrative action is intended to prevent arbitrariness, irrationality, unreasonableness, bias and mala fides. Its purpose is to check whether choice or decision is made “lawfully” and not to check whether choice or decision is “sound”. When the power of judicial review is invoked in matters relating to tenders or award of contracts, certain special features should be

⁴ (2007) 14 SCC 517



borne in mind. A contract is a commercial transaction. Evaluating tenders and awarding contracts are essentially commercial functions. Principles of equity and natural justice stay at a distance. If the decision relating to award of contract is bona fide and is in public interest, courts will not, in exercise of power of judicial review, interfere even if a procedural aberration or error in assessment or prejudice to a tenderer, is made out. The power of judicial review will not be permitted to be invoked to protect private interest at the cost of public interest, or to decide contractual disputes. The tenderer or contractor with a grievance can always seek damages in a civil court. Attempts by unsuccessful tenderers with imaginary grievances, wounded pride and business rivalry, to make mountains out of molehills of some technical/procedural violation or some prejudice to self, and persuade courts to interfere by exercising power of judicial review, should be resisted. Such interferences, either interim or final, may hold up public works for years, or delay relief and succour to thousands and millions and may increase the project cost manifold. Therefore, a court before interfering in tender or contractual matters in exercise of power of judicial review, should pose to itself the following questions:

(i) Whether the process adopted or decision made by the authority is mala fide or intended to favour someone;

OR

Whether the process adopted or decision made is so arbitrary and irrational that the court can say: “the decision is such that no responsible authority acting reasonably and in accordance with relevant law could have reached”;

(ii) Whether public interest is affected.

If the answers are in the negative, there should be no interference under Article 226. Cases involving blacklisting or imposition of penal consequences on a tenderer/contractor or distribution of State largesse (allotment of sites/shops, grant of licences, dealerships and franchises) stand on a different footing as they may require a higher degree of fairness in action.”

Emphasis supplied



9. At the outset, we may note that the impugned NIT was issued on 07.11.2025, the Petitioner was disqualified on 09.01.2026 and the representation filed by the Petitioner against the disqualification was also disposed of by Respondent No. 1 on 27.01.2026. The contract stood awarded in favour of Respondent No. 2 on 02.03.2026 with a direction to Respondent No. 2 to commence services on 01.04.2026. It is also admitted that currently the services, for which the NIT has been issued, are being rendered by the Petitioner's wife through her proprietary concern, which shall expire on 31.03.2026.

10. The subject matter of the tender is sanitation, housekeeping, road sweeping and garbage disposal in Delhi Technological University (DTU) campus and grant of any interdiction of the award in favour of Respondent No. 2 would affect the said essential services, as the current contract is expiring on 31.03.2026. Also, any stay granted would enure the favour of the existing contractor. In these facts, we find that the filing of this petition on 26.03.2026 is clearly barred by delay and laches. We also note that the contract has been awarded in favour of Respondent No. 2 which is a PSU. We are therefore of the considered opinion that it would be against the public interest to entertain this petition at the behest of the Petitioner.

11. Nonetheless, we have also examined the relevant clauses of the NIT i.e., Clause 2.1 and Clause 3.1 which read as under:

“2. ELIGIBLE BIDDERS:-

2.1. Government agencies/PSU Agencies/Companies/Subsidiaries fully/partially owned by Central/State Govt. or their-PSU (s).

3. QUALIFICATION OF THE BIDDERS: -



3.1. The Bidder should be registered as a Company, Firm, Society, Trust and Nigam.”

12. The Petitioner contends that it qualifies Clause 3.1 and therefore should have been permitted to participate in the tender. The Petitioner is a sole proprietorship firm which is not a juristic entity. Clause 3.1 of the NIT restricts participation of the tender to juristic entities. The Petitioner's registration as a Micro Enterprise MSME does not qualify it as a juristic entity for qualifying as a bidder under Clause 3.1 of NIT. The Petitioner is not challenging Clause 3.1. Therefore, the stand of the Petitioner that it satisfies the qualification Clause 3.1 and could not have been disqualified is ex-facie incorrect.

13. In the present writ petition, the Petitioner has also questioned the restrictive nature of Clause 2.1 with reference to the provisions of the General Financial Rules, 2017. However, this Court refrains from examining the merits of the said issue, as the Petitioner fails to qualify Clause 3.1 and has approached the Court at a belated stage. The issue of validity of Clause 2.1 is accordingly left open to be decided in appropriate proceedings, in case of future tenders.

14. With the aforesaid observations, the petition is dismissed being bereft of any merits. Pending applications, if any, stands disposed of.

MANMEET PRITAM SINGH ARORA, J

V. KAMESWAR RAO, J

MARCH 27, 2026/msh/AJ