



2026:DHC:3858



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 3112/2025**

Date of decision: **23.04.2026.****IN THE MATTER OF:-**

RAJ KUMAR SAINI

.....Petitioner

Through: Ms. Apurva Upmanyu and Ms.
Aparna Vishal, Advocates.

versus

GOVT OF NCT OF DELHI & ORS.

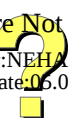
.....Respondents

Through: Mr.Tushar Sannu and Mr. Parvin
Bansal, Advocates.

CORAM:**HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV****J U D G E M E N T****PURUSHAINDRA KUMAR KAURAV, J. (ORAL)**

1. The petitioner is a contractor engaged in the horticulture business. The petitioner had submitted bids on four tenders floated by respondent no.2/PWD on 27.08.2024, for the comprehensive maintenance and development of dense horticulture work in East Road Sub Division-I, II, III and IV (Civil), under Hort. Sub-division East Horticulture division.
2. The petitioner then withdrew his bids three days after the tenders were floated i.e. on 30.08.2024. Resultantly, 50% of earnest money deposited was forfeited.
3. The short issue that arises for the consideration in the present petition is whether the petitioner's withdrawal of its bids, on the ground that

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incorrect rates had been quoted would attract the consequence of forfeiture of 50% of the earnest money deposited by the petitioner pursuant to the Notice Inviting Tender ('NIT').

4. It is not disputed that the technical bids were opened on 27.08.2024, and that the petitioner withdrew its bids on 30.08.2024. The bids herein had to remain open for acceptance for a period of 75 days, from the date of opening of the technical bid. The tender conditions further prescribe that if any tenderer withdraws the tender or makes any modification in the terms and conditions of the tender within in seven days from opening of the bid, the government would be at liberty to forfeit 50% of the earnest money deposited. If such withdrawal is made after seven days, the consequence prescribed is forfeiture of 100% of the earnest money deposited.

5. The relevant clauses i.e. Clause 21 and 32 of the tendered document are extracted as under:-

“Clause 21

21. The bid for the work shall remain open for acceptance for a period of 75 (Seventy Five) days, from the date of opening of the technical bid.

(i) If any tenderer with draws his tenders or makes any modification in the terms and conditions of the tender which is not acceptable to the department in within 7 days after opening of tender (excluding date of opening of tender) then the Government shall without prejudice to any other right or remedy, be at liberty to forfeit 50% of the earnest money absolutely.

(ii) After 7 days of opening of tender the Government shall without prejudice to any other right or remedy, be at liberty to forfeit 100% of the earnest money absolutely.

(iii) The bidders shall not be allowed to participate in the rebidding process of the work.

Clause 32

'32. The bid for the work shall remain open for acceptance for a period of 75 (Seventy-Five) days, from the date of opening of the technical bid.

- 1(i) If any tenderer with draws his tenders or makes any modifications



in the terms & condition of the tender which is not acceptable to the department in within 7 days after opening of tender (excluding date of opening of tender) then the government shall without prejudice to any other right or remedy, be at liberty to forfeit 50% of the earnest money absolutely.

(ii) After 7 days of opening of tender the Government shall without prejudice to any other right or remedy, be at liberty to forfeit 100% of the earnest money absolutely.

(iii) The bidders shall not be allowed to participate in the rebidding process of the work.”

6. In the instant case, the petitioner admittedly withdrew its bids on 30.08.2024, i.e., 3 days from opening of bids. The withdrawal, therefore squarely attracted the consequence under the tender conditions for forfeiture of 50% of the deposited money.

7. Learned counsel for the petitioner has placed reliance on the communication dated 0.6.09.2024 and the response submitted thereto, to contend that the petitioner's case ought not to have been treated as a one of withdrawal simpliciter.

8. This Court has perused the material on record, and the submissions herein. However, it is to be noted that, while exercising judicial review on the exercise of a contractual powers by the government bodies, Courts are to be mindful of the inherent limitations in the exercise of that power as laid down by the Supreme Court through a number of judgements, including that of ***Tata Cellular v Union of India***¹

9. Evaluation of tenders and awarding of contracts are essentially commercial in nature. In the absence of a clear case of arbitrariness, mala fides, or irrationality, the principles of equity, and natural justice may stay at a distance². The judicial quest in such administrative matters ought to be

¹ (1994) 4 SCC 651

² *Jagdish Mandal v State of Orissa*, (2007) 14 SCC 517, para 22



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limited to a review of the decision making process itself, and not the merits on which the decision is being made (*Supra*). That being said, this Court is unable to accept the submission made by the counsel, placing reliance on the communication dated 06.09.2024, and the reply thereto.

10. It is a clear case where the petitioners had accepted the terms and conditions subject to which the tender was liable to be dealt with. The petitioners were, therefore not entitled to withdraw the bid till the period of its validity. The petitioners having withdrawn the bid on 30.08.2024, during the validity of bid, would have to bear the necessary consequence, which is forfeiture of 50% of the deposit.

11. The petitioner, having participated in the tender process with open eyes, cannot be permitted to avoid the consequence expressly stipulated in the tender document.

12. The Court does not find that the decision of the respondents is arbitrary or otherwise violative of the fundamental rights of the petitioners. Thus, no interference is called for in the impugned order. Accordingly, the instant petition stands dismissed.

(PURUSHAINDRA KUMAR KAURAV)
JUDGE

APRIL 23, 2026
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