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

% ***Date of Decision: October 28th, 2026***

\# **CNR No. DLHC010414642021**

\+ **W.P.(C) 34/2022 & CM APPL. 61/2022**

HUKAM CHAND SECURITY AGENCY .....Petitioner

Through: Mr. Shanti Prakash, Ms. Shulaka Singh & Mr. Alok Kumar Tiwari, Advs.

versus

FOOD CORPORATION OF INDIA AND ORS.

.....Respondents

Through: Mr. Manoj & Ms. Aporna Sinha, Advs. for R-1 & 2.
Mr. Farman Ali, CGSC, Ms. Ayushi Agarwal & Ms. Usha Jamnal, Advs.

CORAM:
HON'BLE MR. JUSTICE AMIT MAHAJAN

AMIT MAHAJAN, J. *(Oral)*

1. By the present petition, the petitioner seeks the following reliefs:

> *"(a) issue a writ of certiorari, or any other writ, order or direction to quash the notification No.28 (75)/2020-D(Res-1) dated ·13.05.2021 issued by Ministry of Defence ; and*
> *(b) issue a writ of mandamus, order or direction to the respondents to release the outstanding dues of the Petitioner @ 14% service charge in consonance with the terms of tender and sponsorship;*
> *(c) issue a writ of mandamus, order or direction to the respondents to pay the service charge @ 14% for the bills likely to accrue in furtherance of the contract ;"*

2. As recorded in the order dated 21.03.2023, the petitioner contended that it would not press prayer (a) and primarily prayed for

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the release of the outstanding dues in terms of prayer (b) as quoted *supra.*

3. Briefly, the petitioner is a licensed security agency and provides security services at various government depots. The petitioner registered with Respondent No. 3 in the year 2019. Thereafter, the petitioner, *vide* letters dated 29.06.2020 was sponsored for providing Security Services to the FCI property and personnel. Subsequently, on 31.07.2020, appointment letter was issued to the petitioner as a DGR sponsored security agency for providing security services to the FCI Property and personnel at Narela at the rate of 14% for a period of one year with effect from 01.08.2020 to 31.07.2021. Before the expiry of the said term, on 22.07.2021, the initial period of one year was further extended for another one year from 01.08.2021 to 31.07.2021.

4. In the meantime, OM No. 28(75)/2020-D(Res-1) was issued by Respondent No. 3 on 13.05.2021 which provided that the security agencies would be paid service charges as approved up to a maximum of 10% of the total bill as opposed to the earlier position of 14%. The petitioner was initially being paid service charges at 14% of the total bill, however, post the issuance of the OM dated 13.05.2021, the respondent authorities only sanctioned bill at 10% and not 14% of the total bill as originally provided in the appointment letter. Aggrieved by the same, the petitioner has preferred the present petition.

5. The learned counsel for the petitioner has emphasised that the petitioner is entitled to payment of service charge at 14% and not 10% of the total bill. It has been argued that the sponsorship and the

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contract of the petitioner were executed prior to the issuance of the OM dated 13.05.2021. It has consequently been urged that the OM cannot be applied retrospectively to the detriment of the petitioner.

6. In that regard, learned counsel for Respondent No. 3 submits that a clarification has already been issued pertaining to the Service Charges payable in respect of DGR Security Agency Scheme. Attention of this Court has been drawn to the Clarification issued by Respondent No. 3 on 30.07.2021 which provides the following:

> *"1. The Hon'ble High Court of Delhi had as an interim measure, stayed the execution of Para 13(g) (ii) of the new MoD OM dated 13 May 2021.*
> ***2 Subsequent to that, a corrective measure was adopted and a corrigendum was issued which made the retrospective application of revised rates of service charges as amended to the previous rates of service charge, i.e. 14% (fixed).*** *The condition of stay therefore was met by way of administrative action & measures. In the course of hearing the Hon ble High Court had taken note of the amendment to retrospective levy of service charges.*
> ***3. Apropos, in light of the above, Status quo ante will be maintained in respect-of Service charges, @ 14% for all sponsorships made prior to the issue of the new MoD OM dated 13 May 2021.*** *(For all cases where the contracts are already operational, under tendering and which have been sponsored prior to 13 May 2021-as per Hon'ble High Court of Delhi interim order dated 21 Jun 2021).*
> *4. Service charges for all cases sponsored 13 May 2021 onwards will be at 10% (fixed) till migration of DR Security Schemes to GeM Portal."*

7. The said position has also been materialised in the Affidavit of Respondent No. 3 which provides that the aspects of OM dated 13.05.2021 are not applicable retrospectively and the same applies only to sponsorships made after 13.05.2021. The affidavit further elaborates that the petitioner is covered under the OM dated 09.07.2012 wherein the service charges are fixed at 14%.

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8. The said position has been opposed by Respondent Nos. 1 – 2. It has been sought to be impressed upon this Court that the initial appointment of the petitioner was only for a period of one year from 01.08.2020 to 31.07.2021, and the said period was extended only after the issuance of the OM dated 13.05.2021. It has consequently been urged that the applicable service charges in the present case would also be 10% and not 14%.

9. After having considered the rival contentions of the parties, this Court is unimpressed by the ground agitated on behalf of Respondent Nos. 1-2.

10. As noted above, a clarification was issued by Respondent No. 3 on 30.07.2021 providing that the OM dated 13.05.2021 would not be applicable retrospectively. Further, as is manifest from a perusal of the Affidavit on behalf of Respondent No. 3, it has further been elaborated that the OM dated 13.05.2021 is not applicable retrospectively, and the petitioner having been sponsored on 29.06.2020 (prior to the issuance of OM dated 13.05.2021) is covered by the OM dated 09.07.2012 wherein the service charges are fixed at 14%. Consequently, once the issuing authority being Respondent No.3 has itself clarified the scope, contours and the applicability of the OM dated 13.05.2021, the contentions advanced on behalf of Respondent Nos. 1-2 are rendered untenable and cannot be countenanced.

11. Consequently, in view of the limited relief sought by the petitioner, the respondent authorities are directed to release the outstanding dues of the petitioner @14% service charge in terms of prayer ‘b’ in the present petition.

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12. The present petition along with pending application stands disposed of in the aforesaid terms.

AMIT MAHAJAN, J

OCTOBER 28, 2026
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