
(2013) 09 DEL CK 0520

In the Delhi High Court

Case No : Writ Petition (C) 3470 of 2013; CM No. 6571 of 2013 (Stay) and 11101 of 2013

Din Bandhu Dass

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 18-09-2013

Acts Referred:

Citation : (2013) 09 DEL CK 0520

Hon'ble Judges : V.K. Jain, J

Bench : Single Bench

Advocate : Ashok Bhasin, Mr. K.G. Sharma and Mr. Arav Kapoor, for the Appellant; L.K. Passi, for R-1, Mr. Mukul Gupta and Ms. Anjali Chauhan and Ms. Suvavna Kashyap for AIIMS, Ms. Kusum Sanghi, for R-3, for the Respondent

Final Decision : Disposed Off

Judgement

V.K. Jain, J.—Vide Memorandum dated 13.12.2010 the petitioner, Din Bandhu Dass, was selected to run Cafe-5 at Gents Hostel of the All India Institute of Medical Sciences (for short "AIIMS") on contract basis for a period of eleven (11) months commencing 1.1.2011, subject to the terms & conditions stipulated in the said Memorandum. Vide Memorandum dated 25.4.2013, the petitioner was informed that his contract had been extended for a period of one (1) month, i.e. w.e.f. 1.5.2013 to 31.5.2013 or till the finalization and award of new contract whichever be earlier. Vide notice dated 3.5.2013, the petitioner was informed that since fresh contract had been finalised and he had not been selected for the fresh contract he should make arrangement to wind up his shop/establishment by 24.5.2013 and hand over vacant possession of the premises to the concerned Hostel Junior/Assistant Warden. Being aggrieved from the said vacation notice, the petitioner approached this Court seeking the following reliefs:

a. Grant a writ of certiorari or such other appropriate writ, order or direction calling for the record from the All India Institute of Medical Sciences (AIIMS) pertaining to the Contract awarded to the respondent No. 3 to run the Cafeteria

at First Floor, JPNA Trauma Centre, AIIMS, New Delhi to ascertain the veracity of experience certificate and other documents submitted by respondent No. 3 for getting the contract in March, 2012;

b. set aside the impugned order dated 03.05.2013 issued by the respondent No. 2 directing the petitioner to vacate and hand over the possession of the premises of Cafe-5, Gents Hostel, AIIMS;

c. cancel the award of contract to the respondent No. 3 to run the Cafe-5, Gents Hostel, and the Mess at JPNA Trauma Centre, AIIMS, New Delhi, and award the same to the petitioner;

As far as the contract awarded to the petitioner is concerned, the same having expired by efflux of time on 31.5.2013 and having not been extended thereafter, the petitioner has no legal right to continue in the premises which was made available to him pursuant to the Memorandum dated 13.12.2010. The petitioner, therefore, must necessarily vacate the said premises and hand it over to the hostel authorities. The learned senior counsel appearing for the petitioner requests that a few days' time may be given to the petitioner to wind up his affairs and remove his articles from the premises wherefrom he was providing services to the inmates of the hostel. The petitioner is permitted to remove his articles from the said premises on or before 24.9.2013, subject to his furnishing an undertaking to this Court on or before 19.9.2013 stating therein that he shall remove all his articles from the said premises and hand over its vacant possession to the hostel authorities on or before 24.9.2013.

2. The respondent No. 2-AIIMS vide notice dated 1.2.2013 invited applications from experienced persons/firms to undertake eleven (11) months' contract in respect of certain non-commercial establishments (MESS Cafe) at different hostels of AIIMS. The Gents Hostel, Cafe-5, the contract in respect of which was awarded to the petitioner was amongst the non-commercial establishments subject matter of the said notice. A number of tenderers including the petitioner applied pursuant to the said notice and the respondent No. 2 selected respondent No. 3, M/s. Eshwar's Kamdhenu Restaurant. However, the contract awarded to respondent No. 3 was recalled by AIIMS vide Memorandum dated 24.6.2013. At present it is the petitioner who continues to provide Services in Gents Hostel, Cafe-5.

3. A perusal of the minutes of the Committee which finalised the tenders and shortlisted the tenderers in terms of the marks awarded to them would show that out of 30 marks, 10 marks were allocated to previous experience, 15 were allocated to fitness for job and 5 were allocated to special conditions. The minutes, however, do not indicate what the special conditions were. As noticed earlier, the AIIMS while inviting tenders sought applications from experienced persons without indicating what would be the norms applied for evaluation of the tenders. The notice did not even indicate as to how much was the minimum experience required by the AIIMS. There was no indication in the notice that the

tenders would also be evaluated on the parameters of fitness for job and special conditions. As a result, the tenderers did not know what would be the parameters on which their bids would be evaluated.

4. In my view, the criteria which respondent No.-2/AIIMS was to apply for evaluation of the bids was required to be disclosed in the tender document itself so that only those who qualify for submitting the bid would give tenders pursuant to the said public notice and the bids would be evaluated on the norms which are already notified to the general public, leaving no scope for an arbitrary evaluation. In my view it was not appropriate to the respondent No. 2/AIIMS to evaluate the bids on the criteria which were not notified in the public notice. In these circumstances, the notice dated 1.2.2013 inviting applications, to the extent it pertained to Gents Hostel, Cafe-5, is hereby quashed and the respondent No. 2/AIIMS is directed to invite fresh tenders within eight weeks, after disclosing, in the tender notice the norms which shall be applied for evaluation of the tenders. Till fresh tenders are invited and a contract is awarded, the respondent No. 2/AIIMS shall be entitled to make such ad hoc arrangement as it may deem appropriate for running the MESS in Gents Hostel, Cafe-5. The petitioner, if eligible, will also be entitled to participate in the tender process.

The petition and the applications stand disposed of.