

(2018) 09 RAJ CK 0073

In the Rajasthan High Court

Case No : Civil (PIL) Writ Petition No.17472, 17830 of 2018

Dr. Vibhuti Bhushan Sharma @APPELLANT@Hash State of Rajasthan & Ors

Date of Decision : 05-09-2018

Acts Referred:

Citation : (2018) 09 RAJ CK 0073

Hon'ble Judges : Pradeep Nandrajog, CJ;G R Moolchandani, J

Bench : Division Bench

Advocate : N.M.Lodha, Sheetanshu Sharma, Kunal Jaiman, A.K.Sharma, Vishnu Kant Sharma, Rajendra Prasad Sharma, M.S.Sharma, Prachi Pareek, Bharat Vyas

Final Decision : Disposed Off

Judgement

S.No,"N ame of the
work","Estimated
cost (in
lacs)","Security deposit
2%Â Â Â Â Â Â Â Â Â Â Â Â Â Â Â Â
Â 0.5%","Tender
fee","Tender sale
date","Tender
receipt/
opening
date","Period of
completion
of work

1.,"Jalore Bhinmal

Raniwada Road

(State Highway-

31) Km 44/0 to

79/0",4.90,"9800

Â Â Â Â Â Â Â Â Â Â Â Â Â Â Â Â 2450",500,13.08.2018,13.08.2018,7 days

2.,"Jalore Bhinmal

Raniwada Road

(State Highway-

31) km 79/0 to

85/0",4.90,"9800

Â Â Â Â Â Â Â Â Â Â Â Â Â Â Â Â 2450",500,13.08.2018,13.08.2018,7 days

3.,"Additional work

on Kodi Chitrodi

Rajpura

Sundhamata

Jaswantpura

Road km 0/0 to

12/0",4.90,"9800

Â Â Â Â Â Â Â Â Â Â Â Â Â Â Â Â 2450",500,13.08.2018,13.08.2018,7 days

4.,"Additional work

on Kodi Chitrodi

Rajpura

Sundhamata

Jaswantpura

Road km 12/0 to

24/0",4.90,"9800

Â Â Â Â Â Â Â Â Â Â Â Â Â Â Â Â 2450",500,13.08.2018,13.08.2018,7 days

5.,"R o a d parking

and zebra

crossing thermo

plast Revdar

Jaswantpura

Bhinmal Bagoda

Chochwa Phanta

road km 65/0 to

130/0",4.90,"9800

Â Â Â Â Â Â Â Â Â Â Â Â Â Â Â 2450",500,13.08.2018,13.08.2018,7 days

6., "W o r k for

erection of

platform for

meeting in

Sundamata

Talhati",4.90,"9800

Â Â Â Â Â Â Â Â Â Â Â Â Â Â Â 2450",500,13.08.2018,13.08.2018,7 days

7., "W o r k for

erection of

platform for

meeting in

Ramsin/Bhinmal",4.90,"9800

Â Â Â Â Â Â Â Â Â Â Â Â Â Â Â 2450",500,13.08.2018,13.08.2018,7 days

8., "R o a d repair

work Bhinmal

Punasa Thobau

road km 0/0 to

31/0",4.90,"9800

Â Â Â Â Â Â Â Â Â Â Â Â Â Â Â 2450",500,13.08.2018,13.08.2018,7 days

incurred by the State.,,,,,,,

21. As regards the State incurring expenditure for protocol and security of the Chief Minister is concerned, learned counsel for the writ petitioners had",,,,,,,

no quarrel therewith.,,,,,,,

22. If it is alleged that the power is being exercised colourably the veil has to be lifted by the Court to find out as to what is the actual reach ofÂ.,,,,,,,

action by the State.,,,,,,,

23. From the facts noted hereinabove it is clear thatÂ the office order dated 1.8.2018, admitted in the reply to be erroneously issued and withdrawn,".,,,,,,,

was requiring the Public Works Department to incur expenditure for political rallies in the form of providing tent, sound system, stage during political".,,,,,,,

rally. It is apparent that the initial attempt by the Government was a palpable abuse of the executive power of the State to directly help a political party.,,,,,,,

i.e. the Bhartiya Janta Party.,,,,,,,

24. The second office order dated 2.8.2018, which has still not been withdrawn,Â issued by the Department of Information and Public Relations is in".,,,,,,,

vernacular and translated,Â it reads as under:-".,,,,,,,

â??The Hon'ble Chief Minister shall tour District Udaipur from 4th to 10th August, 2018. During the tour programme Shri Kamlesh Sharma,".,,,,,,,

Dy. Director, Banswara, alongwith other officers of the District would be responsible for media management not only to give publicity to the tour".,,,,,,,

programme but even to public welfare schemes and programmes of the Government.â??.,,,,,,,

25. The use of the words â??sath-sathâ?? in the office order dated 2.8.2018 is clearly indicative of the fact that the Public Relations.,,,,,,,

Officers would be coordinating media publicity not only to the political yatra i.e. Gaurav Yatra of Chief Minister but even publicity to the social.,,,,,,,

welfare schemes of the Government.,,,,,,,

26. We over look notice inviting tenders concerning barricades for the reason they may relate to the security of the Chief Minister. But the tenders for.,,,,,,,

water proofing and tentage are so general in nature that it is impossible to find out whether the same relate to the canopy at the dais wherefrom the.,,,,,,,

Chief Minister would be addressing public gatheringÂ during the road-shows or the same relate to exhibition organized by the Government. We lodge.,,,,,,,

a caveat here.,,,,,,,

27. Pertaining to launching of social welfare programmes and inauguration of exhibitions during the course of the Gaurav Yatra we shall elaborate a.,,,,,,,

little further.,,,,,,,

28. In this context, office order No.10/2018-2019 is telling. It invites bids for different segments of roads from km 44 to 85 on the Bhinmal-Raniwada",,,,,,,

State Highway and km 0 to km 12 on Sundhamata-Jaswantpura segment of the Highway.Â Description of the works for which bids have been.,,,,,,,

invited has not been disclosed in the notice inviting tenders. Learned counsel for the State submits that theÂ details would be provided in the bid.,,,,,,,

documents and orally stated that the same would be toÂ fill the pot holes. But what about the work at serial Nos.6 and 7?Â At serial No.6 bids are.,,,,,,,

invited for erection of platform for meeting at Sundhamata. Similarly, at serial No.7 bids are invited for erection of platform for meeting at",,,,,,,

Ramsin/Bhinmal. Description of the works to be executed for the works at serial No.6 and 7 are missing from the notice inviting tenders.,,,,,,,

29. Reading the notice concerning works for which bids have been invited, sans description of the works, it is apparent that during the road-shows",,,,,,,

public platforms are being erected at Government cost. Thus, the inevitable conclusion on facts has to be that under the cover up of the notice inviting",,,,,,,

tenders where detailed description of the works to be executed have not been listed, money is being spent for erecting public platforms wherefrom the",,,,,,,

Chief Minister would address political rally.,,,,,,,

30. Similarly, the tender documents annexed with Application No.10/2018 show large number of works for providing water proofing tentage and",,,,,,,

german hanger.,,,,,,,

31. At this stage we would deal with the left over issue as indicated by us in para 27 above.,,,,,,,

32. It is conceded by the State that Government functions for inaugurating Government projects or inaugurating exhibitions where publicity would be.,,,,,,,

given to the social welfare schemes of the State are being held during the Gaurav Yatra. Meaning thereby, after the Chief Minister alongwith office",,,,,,,

bears of Bhartiya Janta Party travels a part of road journey during the yatra, the yatra is temporarily halted and a function is held, purporting to be a",,,,,,,

State sponsored function. Thereafter, yatra proceeds and another State sponsored function is held.",,,,,,,

33. So intermingled are the State sponsored and State financed programmes with the Gaurav Yatra that it would be impossible to segregate one from.,,,,,,,

the other. It is trite that the impact of an act has to be understoodÂ from the view point of understanding by the mythical common man. To a common,,,,,,,,

man, if during the Gaurav Yatra, which is a political event, the leader of a political party who happens to be the Chief Minister inaugurates public",,,,,,,,,

functions, the understanding would be the glorification of the political party and not the glorification of the achievements by the Government.",,,,,,,,

34. Keeping in view the principles laid down in the two decisions of the Supreme Court in the writ petitions filed by the Common Cause, we declare",,,,,,,,,

that henceforth no public functions sponsored and financedÂ by the State would be held during the road-shows i.e. Gaurav Yatra to be undertaken by,,,,,,,,

the Bhartiya Janta Party in the State of Rajasthan. Meaning thereby, on the day of the Gaurav Yatra no Government functions would be held enroute",,,,,,,,,

when the Chief Minister and the functionaries of the Bhartiya Janta Party halts the Gaurav Yatra for some time and re-commences the same after,,,,,,,,

the break,,,,,,,,

35. The petitions are disposed of accordingly,,,,,,,,