

(2018) 02 DEL CK 0158

In the Delhi High Court

Case No : Civil Writ Petition No. 10637 Of 2016

Inderbir Singh

APPELLANT

Vs

North Delhi Municipal Corporation

RESPONDENT

Date of Decision : 05-02-2018

Acts Referred:

Constitution Of India, 1950 — Article 226

Citation : (2018) 02 DEL CK 0158

Hon'ble Judges : G.S.Sistani, J; Sangita Dhingra Sehgal, J

Bench : Division Bench

Advocate : B.L. Wali, Mini Pushkarna

Final Decision : Dismissed

Judgement

G.S.Sistani, J

1. This is a petition under Article 226 of the Constitution of India. By this petition, petitioner seeks following reliefs :

(i) issue an appropriate writ, order or direction to the respondent to immediately issue LOIs/Offer letters to the petitioner in respect of parking sites at

(i) Karampura Commercial Complex, (ii) in front of Milan Cinema and MCD Shops, (iii) Covered Drain, Ramesh Nagar and (iv) Parking site near

Manglam Plaza, Rohini, Plot No.7 (Vardhaman Plaza) being at serial Nos.7, 8, 9 and 17 of NIT Parking List issued by the respondent for allotment of

parking sites for which the petitioner stood the highest bidder.

(ii) issue an appropriate writ, order or direction to the respondent not to cancel and /or re-auction the parking sites at (i) Karampura Commercial

Complex, (ii) in front of Milan Cinema and MCD Shops, (iii) Covered Drain, Ramesh Nagar and (iv) Parking site near Manglam Plaza, Rohini, Plot

No.7 (Vardhaman Plaza) for which the petitioner has been declared as the highest bidder by the respondent.

(iii) Award costs in favour of the petitioner and against the respondent.

2. On 02.09.2016 the respondent invited e-tenders from parking contractors/firms/companies/individuals for e-allotment for e-auction to allot various

parking site on payment of advance monthly licence fee basis. On 13.10.2016, the petitioner made an offer with respect to four sites at different

monthly licence fee of Rs.1,72,600/- in respect of parking site at Karkardooma Commercial complex; Rs.22,000/- per month in front of Milan Cinema

and MCD shops; Rs.3,54,300/- per month in respect of parking site at covered drain, Ramesh Nagar and Rs.10,00,300/- per month in respect of

parking site near Manglam Plaza, Rohini and the petitioner was declared the highest bidder.

3. Vide communication dated 17.10.2016, the petitioner was directed to produce updated bank statement/passbook upto 07.10.2016 latest by

18.10.2016 by 3.00pm positively.

4. It is the case of the petitioner that he appeared on 18.10.2016 and produced the relevant documents and was assured that an allotment letter would

be issued to him. However, since the allotment letter was not issued, he addressed letters dated 19.10.2016 and 03.11.2016 and requested the

respondent to issue the allotment letter or refund the earnest money. Having received no reply to the letters, the petitioner approached this Court by

filing the present writ petition.

5. Notice was issued in the matter and on the next date of hearing, interim protection was granted to the petitioner which was subsequently vacated as

the counsel for the petitioner was not present (Mr. Wali submits that he was indisposed).

6. Counter affidavit has been filed. As per the counter affidavit, on being suspicious that the petitioner was a Benami tenderer, he was called upon to

furnish his bank statement. Upon examining the bank statement on 18.10.2016, the petitioner was confronted with the extremely low balance in the

bank accounts. The petitioner admitted that the bids made by him were Benami. The petitioner made an endorsement on one of the Summary of

Account, â??I undertake that the bids submitted by me on 13.10.2016 are Benami and as per TNC, I am not eligible, I hereby withdraw my bidsâ??.

7. Counsel for the respondents contends that as the petitioner had admitted that the bids submitted by him were Benami and accordingly the earnest

money is liable to be forfeited. Reliance is placed on clause 2 B (ii) (b) of the terms and condition of the tender and licence agreement.

8. Learned counsel for the petitioner submits that he has not received any communication informing him that the earnest money has been forfeited in

fact no reply has been received pursuant to any of his communications. He further submits that as per the counter affidavit, there is no reference of

the earnest money being forfeited nor copy of such reply has been annexed with the counter affidavit.

9. At this stage, counsel for the respondents on instructions submits that in fact a cancellation letter has been issued and in case the petitioner has not

received the same another copy shall be furnished to him through counsel within three days.

10. We have heard the learned counsel for the parties. Although, we find it rather strange that the respondent has not bothered to reply to

communications dated 19.10.2016 and 03.11.2016 addressed by the petitioner to them. We find it equally strange that the tender was floated in the

year 2016 and till year 2018, neither the MCD has chosen to respond to the letters of a citizen nor issued any communication to the petitioner

informing him that earnest money has been forfeited.

11. Learned counsel for the respondent has relied upon para 2 B (ii) (b) of the terms and conditions of the tender and licence agreement for allotment

of North Delhi Municipal Corporation Authorised Parking sites on monthly licence fee basis, which reads as under:

â??No Benami tender has been submitted by him/them in the name of his/their dependent family members, employees, officials, servants or

associated person, firm, company and in case it is found at any subsequent stage that any such Benami tender has been submitted or

contract is allotted on the basis of such Benami tender, the tender/agreement shall be liable to be rescinded, the contractor blacklisted and

the security forfeitedâ??.

12. At this stage, counsel for the petitioner submits that since his earnest money has been forfeited, the petitioner does not press this petition but would

assail the said decision raising all grounds including the grounds urged in this

writ petition. Accordingly, let a copy of the cancellation letter be furnished to the petitioner within three days through.

13. It would be open for the petitioner if so advised to assail the said letter in accordance with law raising all grounds available to him including the grounds urged in this writ petition.

14. This petition is dismissed as not pressed in above terms.

CM No.41703/2016

In view of the order passed in this writ petition, the present application is rendered infructuous.