
(2013) 03 MAD CK 0191
In the Madras High Court
Case No : Writ Petition No. 28303 of 2010

Oveyam Ranjan

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 12-03-2013

Acts Referred:

Airports Authority of India Act, 1994 — Section 42
Constitution of India, 1950 — Article 14, 19(1)(g), 21

Citation : (2013) 3 MLJ 675

Hon'ble Judges : Elipe Dharma Rao, J; Aruna Jagadeesan, J

Bench : Division Bench

Advocate : G. Rajagopal for Mr. V.R. Thangavelu, for the Appellant; G. Masilamani, Mrs. Bhavani Subbaroyan, for R.1 and R.3 to R.5 in both ASG, Mr. Vijaya Narayanan, R. Parthiban for Sr. counsel, for R.2 in both, Mr. N. Chandrasekaran, for R.6 in both, Mr. P.S. Raman, S.C. for Mr. N. Vijayakumar, for R.7, R.10 and Sr. Counsel, for R.12 in both and Mr. Arvind P. Datar, for the Respondent

Judgement

Elipe Dharma Rao J.

1. The Airports Authority of India (AAI), invited Global Tenders for grant of licence for providing comprehensive ground handling services to various airlines, operating at Chennai and Kolkata Airports, on 20.7.2009. In response to this tender, Joint venture of M/s. Bhadra International India Ltd. and Novia International viz. the ninth respondent and other bidders participated. During the tender process, the 9th respondent quoted the royalty payable to AAI at the rate of 32.5% of annual gross turn over and being the highest bidder, the licence was awarded to the 9th respondent. Against this award of licence in favour of the 9th respondent, W.P. No. 28303 of 2010 has been filed as a public interest litigation on 9.12.2010. The matter was admitted on 9.3.2011 and on the same day, an interim order was passed to the effect that "any further action that may be taken by the second respondent/Airport Authority of India shall be subject to the result of the writ petition." It is after this that the other writ petition in W.P. No. 11910

of 2011 has been filed by the petitioners. Since both the matters are inter connected with each other, they are clubbed and heard together, leading to disposal of them by this common order. It is commonly alleged in both the writ petitions that eligibility conditions of the tender were tailor-made to suit the 9th respondent and to substantiate this allegation, motives have been attributed to the 11th respondent/Mr. Narayanan, the then Executive Director of AAI. It has also been alleged that the lead member, Novia International, neither had five years experience in ground handling nor a turn over of Rs. 200 crore and that Bhadra International was selected at a time when one of its sister companies had outstanding dues of Rs. 36 crores with AAI for an advertisement contract and TDI International, which owed the money to AAI and Bhadra International were both floated by the 10th respondent/Mr. Prem Bajaj.

2. Respondents 2, 13 and 14 have stoutly denied the allegations of the petitioners. They have specifically averred and argued that M/s. TDI International India Limited was not a participant in the global tenders invited for Ground Handling invited by the AAI and in terms of the eligibility criteria laid down in the Notice inviting tenders, the lead member alone will be evaluated pursuant to the eligibility criteria and in the instant case, M/s. TDI International India Limited is a separate legal entity carrying out advertisement business and M/s. Bhadra International India Limited is a Joint Venture Consortium partner along with M/s. Novia International Consulting APS of Denmark and none of the consortium partners are having any dues payable to the Airports Authority of India. It is also their specific stand that as on 9.9.2009, the date of award of the tender, M/s. TDI International India Limited had a total clear dues of approximately Rs. 36.85 crores and as against this, AAI was holding irrevocable Bank Guarantees in its absolute favour for Rs. 46.24 crores to secure the said dues. Thus, at the point of time of award of contract, the Bank Guarantees obtained from TDI International India Limited and other concessionaires are in excess of the total dues of the respective concessionaires, to ensure that there is adequate security for the dues payable to AAI and AAI has taken appropriate steps periodically to recover the dues and that M/s. TDI International India Limited had paid part payments periodically. They have also specifically denied the allegation of the petitioners that after accumulating dues, the promoter of M/s. TDI International India Limited had floated another company, namely, M/s. Bhadra International India Limited to bag the contract since from the Certificate of Incorporation, it is seen that M/s. Bhadra International is an existing company, incorporated way back in the year 2000, while the tenders were called only in 2009.

3. Other respondents have also filed individual counters denying the allegations of the petitioners, further praying to dismiss both the writ petitions as bereft of truth.

4. We heard the learned counsel appearing on either side elaborately.

5. From the materials placed on record, we are able to see that previously, there was no outside ground handling agency licensed by AAI to do the job of ground

handling at airports in India. However, since it was noticed that airline companies, which were supposed to be doing the job of ground handling themselves, were really outsourcing the work to third parties without the consent or permission of AAI, a decision was taken by AAI to streamline the process of ground handling for which the Airports Authority of India (General Management, Entry for Ground Handling Services) Regulations, 2007 were framed in exercise of powers conferred u/s 42 of the AAI Act. Similarly, just prior to the framing of the said Regulations, circular dated 28.9.2007, followed subsequently by another circular dated 2.6.2010 were issued by the DGCA to implement the new ground handling policy and the circulars and regulations, inter alia, made the following entities immediately eligible for providing ground handling services at all Metropolitan Airports i.e. Delhi, Mumbai, Chennai, Kolkata, Bangalore and Hyderabad:

- i) The Airport operator itself or its Joint Venture Partner;
- ii) Subsidiary companies of the national carrier i.e. National Aviation Company of India Ltd. (NACIL) or their Joint Ventures;
- iii) Any other ground handling service providers selected through competitive bidding on revenue sharing basis by the airport operator subject to security clearance by the Government and observance of performance standards as may be laid down by the Airport operator.

Subsequently, by the circular dated 2.12.2010, it has been decided to exclude self-handling by airlines at all airports in India. Pursuant to these circulars and regulations, it was decided to issue a Global NIT for selecting a competent ground handling service provides, which was given wide publicity in both national and international newspapers.

6. At this stage, the Federation of Indian Airlines and others, comprising all airline carriers, have filed W.P.(C) No. 8004 of 2010 before the Delhi High Court, praying to declare the above said circulars and other circulars in AIC No: 7/2007 dated 28.9.2007, AIC No: 15/2008 dated 31.12.2008, AIC No: 6/2009 dated 30.6.2009, AIC No: 13/2009 dated 31.12.2009, AIC No: 3/2010 dated 2.6.2010 and the Regulations, namely, Airports Authority of India (General Management, Entry for Ground Handling Services) Regulations, 2007 as ultra vires the provisions of The Aircraft Act, 1934, Aircraft Rules, 1937 and The Airports Authority of India Act, 1994 and also ultra vires of Articles 14 and 19(1)(g) of the Constitution of India and further to issue a Writ of Certiorari for quashment of the same.

7. When the said matter was pending before the High Court of Delhi, the petitioner in W.P. No. 28303 of 2010 has come forward to file this writ petition under the garb of probono publico, as if no other writ petition is pending before any other Court on the issue. It is now seen that the Honourable First Bench of the Delhi High Court has dismissed the said writ petition by a detailed order dated 7.3.2011.

8. From the above facts, it is clear that having found the weakness in the case before the High Court of Delhi, the interested persons like the petitioners in W.P. No. 11910 of 2011, have prompted a third party/the petitioner in W.P. No. 28303 of 2010 to file the said writ petition, as a public interest litigation, that too at the eleventh hour, undoubtedly with an ill intention to prevent the successful bidder/9th respondent to commence its operations. Further, it has also been brought to our notice that the petitioner in W.P. No. 28303 of 2010, who posed himself as the President of "S.C.C. Anthony Pillai Labour Union", has not raised any issue with regard to any labour problem so far and this petition has been filed by him only at the behest of some interested parties. This is also clear from the fact that similar affidavits filed by both the petitioners. We wonder, if both the petitioners are separate and different persons or entities, but fighting for common cause, how same (not similar) averments could find place in their affidavits. The bona fides of the petitioner in W.P. No. 28303 of 2010 are undoubtedly at stake and given the material available on record, we have no doubt or hesitation to hold that the petitioner in W.P. No. 28303 of 2010 has resorted to this prompted and personal interest litigation, at the behest of persons like the petitioners in W.P. No. 11910 of 2011, who are trying to create obstacles for the successful bidder to commence its operations.

9. From the materials placed on record, we have seen that the above said TDI International India Limited was an advertising concessionaire of AAI and a non traffic revenue generator for AAI for quite a long time and they, by their communication dated 27.9.2012, have paid a sum of Rs. 61,85,11,918/= towards full and final settlement of their dues as on 31.7.2012.

10. As a matter of fact, it is to be pointed out that the object of the petitioner in W.P. No. 28303 of 2010, filed as PIL, appears to stall the taking over of the airport ground handling work by R.9 at the last minute. We arrived at this conclusion, given the fact that the contract for ground handling operations was awarded to R.9, by the letter dated 9.9.2009, pursuant to a public tender and security clearances were granted by Bureau of Civil Aviation Security, by their letters dated 23.4.2010 and 26.5.2010 in May, 2010, but the petitioner waited till the end of December, 2010 for filing the present writ petition, since, the petitioner knew well that R.9 was to commence the ground handling activities by 1.1.2011.

11. Further, when the aggrieved parties, if any, themselves kept mum, we wonder as to why the petitioner in W.P. No. 28303 of 2010, completely a third party to the entire issue, should espouse the claim of the ground handlers under the clothe and garb of public interest litigation, that too posing himself as "Messiah of Masses" and trying to interfere in a commercial contract matter. This, in our view, is nothing but a proxy litigation indulged in by the petitioner in W.P. No. 28303 of 2010.

12. At this juncture, it is relevant for us to quote a judgment of the Honourable Apex Court in Janata Dal Vs. H.S. Chowdhary and Others, , wherein it has been

held that "only a person acting bona fide and having sufficient interest in the proceeding of PIL, will alone have locus standi and can approach the Court to wipe out the tears of the poor and needy, suffering from violation of their fundamental rights, but not a person for personal gain or private profit or political motive or any oblique consideration".

13. In *Kushum Lata Vs. Union of India (UOI) and Others*, the Honourable Apex Court has held that "when there is material to show that a petition styled as a "public interest litigation" is nothing but a camouflage to foster personal disputes, the said petition is to be thrown out."

14. Further, in his writ petition, the petitioner in W.P. No. 28303 of 2010 has produced many documents, which are all official communications between various organs of the State and in spite of our repeated questioning as to how he came into possession of those documents, no answer has emanated from his counsel.

15. It is relevant for us, at this juncture, to quote the judgment of the Honourable Apex Court in *Gurpal Singh Vs. State of Punjab and Others*, wherein it has been held as follows:

As noted supra, the time has come to weed out the petitions, which though titled as public interest litigations are in essence something else. It is shocking to note that courts are flooded with a large number of so-called public interest litigations where only a minuscule percentage can legitimately be called as public interest litigations. Though the parameters of public interest litigation have been indicated by this Court in a large number of cases, yet unmindful of the real intentions and objectives, High Courts are entertaining such petitions and wasting valuable judicial time which, as noted above, could be otherwise utilised for disposal of genuine cases. Though in *Dr. Duryodhan Sahu and Others Etc. Etc. Vs. Jitendra Kumar Mishra and Others Etc. Etc.*, this Court held that in service matters PILs should not be entertained, the inflow of so-called PILs involving service matters continues unabated in the courts and strangely are entertained. The least the High Courts could do is to throw them out on the basis of the said decision. The other interesting aspect is that in the PILs, official documents are being annexed without even indicating as to how the petitioner came to possess them. In one case, it was noticed that an interesting answer was given as to its possession. It was stated that a packet was lying on the road and when out of curiosity the petitioner opened it, he found copies of the official documents. Whenever such frivolous pleas are taken to explain possession, the Court should do well not only to dismiss the petitions but also to impose exemplary costs. It would be desirable for the courts to filter out the frivolous petitions and dismiss them with costs as aforesaid so that the message goes in the right direction that petitions filed with oblique motive do not have the approval of the courts. (emphasis supplied)

It has also been held in this judgment as follows:

9. It is depressing to note that on account of such trumpety proceedings initiated before the courts, innumerable days are wasted, which time otherwise could have been spent for the disposal of cases of the genuine litigants. Though we spare no efforts in fostering and developing the laudable concept of PIL and extending our long arm of sympathy to the poor, the ignorant, the oppressed and the needy whose fundamental rights are infringed and violated and whose grievances go unnoticed, unrepresented and unheard; yet we cannot avoid but express our opinion that while genuine litigants with legitimate grievances relating to civil matters involving properties worth hundreds of millions of rupees and substantial rights and criminal cases in which persons sentenced to death facing the gallows under untold agony and persons sentenced to life imprisonment and kept in incarceration for long years, persons suffering from undue delay in service matters government or private, persons awaiting the disposal of tax cases wherein huge amounts of public revenue or unauthorised collection of tax amounts are locked up, detenus expecting their release from the detention orders, etc. etc. are all standing in a long serpentine queue for years with the fond hope of getting into the courts and having their grievances redressed, the busybodies, meddlesome interlopers, wayfarers or officious interveners having absolutely no real public interest except for personal gain or private profit either of themselves or as a proxy of others or for any other extraneous motivation or for glare of publicity break the queue muffling their faces by wearing the mask of public interest litigation and get into the courts by filing vexatious and frivolous petitions of luxury litigants who have nothing to lose but trying to gain for nothing and thus criminally waste the valuable time of the courts and as a result of which the queue standing outside the doors of the court never moves, which piquant situation creates frustration in the minds of the genuine litigants. (emphasis by us)

10. Public interest litigation is a weapon which has to be used with great care and circumspection and the judiciary has to be extremely careful to see that behind the beautiful veil of public interest an ugly private malice, vested interest and/or publicity-seeking is not lurking. It is to be used as an effective weapon in the armory of law for delivering social justice to the citizens. The attractive brand name of public interest litigation should not be allowed to be used for suspicious products of mischief. It should be aimed at redressal of genuine public wrong or public injury and not publicity-oriented or founded on personal vendetta. As indicated above, court must be careful to see that a body of persons or member of the public, who approaches the court is acting bona fide and not for personal gain or private motive or political motivation or other oblique consideration. The court must not allow its process to be abused for oblique considerations by masked phantoms who monitor at times from behind. Some persons with vested interest indulge in the pastime of meddling with judicial process either by force of habit or from improper motives and try to bargain for a good deal as well as to enrich themselves. Often they are actuated by a desire to win notoriety or cheap popularity. The petitions of such busybodies deserve to be thrown out by

rejection at the threshold, and in appropriate cases with exemplary costs. (emphasis supplied)

16. As has already been indicated supra, the petitioner in W.P. No. 11910 of 2011 has not participated in the tender process, which is purely a commercial contract, and that he is not an aggrieved party also but only at the instance of some interested parties, he has filed this writ petition as if some public interest is involved. Admittedly, the issue relates to a commercial contract and by now it is a settled position of law that no PIL is maintainable in commercial contract matters.

17. In Villianur Iyarkkai Padukappu Maiyam Vs. Union of India (UOI) and Others, , a similar situation prevailed and a Three Judge Bench of the Honourable Apex Court has held:

... the contract assailed in the writ petitions was purely commercial in nature.

Neither any of the parties, which had participated in the process of selection of the consultant/developer nor any of those, which had expressed desire to develop the Pondicherry Port but was not selected, has come forward to challenge the selection procedure adopted by the Government of Pondicherry or the selection of respondent 11 as developer of the Pondicherry Port.

The only ground on which a person can maintain a PIL is where there has been an element of violation of Article 21 or human rights or where the litigation has been initiated for the benefit of the poor and the underprivileged who are unable to come to the court due to some disadvantage.

The only ground on which the appellants could have maintained a PIL before the High Court was to seek protection of the interest of the people of Pondicherry by safeguarding the environment. That issue was raised by the appellants before the High Court and the High Court has issued directions regarding the same. After the High Court's directions the element of public interest of the appellants' case no longer survives. The appellants cannot, therefore, proceed to challenge the award of the contract in favour of Respondent 11 on other grounds as that would amount to challenging the policy decision of the Government of Pondicherry through a PIL, which is not permissible. Thus, on the ground of locus standi also the appeals should fail.

This judgment has been rendered by the Honourable Apex Court by emphasizing the earlier judgment in BALCO Employees Union (Regd.) Vs. Union of India and Others,].

18. Both the above judgments squarely apply to the case on hand also since a third party to the entire proceedings, has come forward to file the writ petition under the garb of public interest litigation, to espouse somebody's cause. Therefore, the very writ petition filed in W.P. No. 28303 of 2010 is liable to be dismissed on the grounds of maintainability and lack of locus standi of the petitioner therein.

19. However, since others, petitioners in W.P. No. 11910 of 2011, have also come forward to challenge the action of the official respondents, in awarding contract to the 9th respondent, of course after the filing of W.P. No. 28303 of 2010, to give a quietus to the entire issue, we proceed to discuss the other issues raised and urged by the parties.

20. Before proceeding so, at the cost of repetition, we also place on record the fact that the affidavits filed in support of both the writ petitions are same, with some additions here and there, and of course, filed by the same learned Advocate. It supports our view that the earlier writ petition in W.P. No. 28303 of 2010 (filed as PIL) is nothing but a sponsored litigation of the petitioners in W.P. No. 11910 of 2011 and other such interested litigants, making the W.P. No. 28303 of 2010 a proxy litigation.

21. Now, falling back to the other aspects urged on either side, first of all, we shall see the scope of judicial review in matters of Government contracts. This position has been made clear by the Honourable Apex Court In *Michigan Rubber (India) Ltd. Vs. The State of Karnataka and Others*, wherein it has been held as follows:

Scope of court's interference is very restricted and limited where State acts reasonably, fairly and in public interest since no person can claim a fundamental right to carry on business with Government. Greater latitude is to be conceded to State authorities in matters of formulating conditions of tenders and awarding contracts and interference by court is not warranted unless action of tendering authority is mala fide and is a misuse of statutory powers nor would court interfere because it feels some other terms in the tender would have been fairer, wiser or more logical. Certain preconditions or qualifications for tenders have to be laid down to ensure that contractor has capacity and resources to successfully execute the work.

22. In *Association of Registration of Plates vs. Union of India and others* [2005] 1 SCC 679], the Honourable Apex Court has held:

Article 14 of the Constitution prohibits the Government from arbitrarily choosing a contractor at its will and pleasure. It has to act reasonably, fairly and in public interest in awarding contract. At the same time, no person can claim a fundamental right to carry on business with the Government. All that he can claim is that in competing for the contract, he should not be unfairly treated and discriminated against, to the detriment of public interest. Undisputedly, the legal position which has been firmly established from various decisions of the Supreme Court is that government contracts are highly valuable assets and the court should be prepared to enforce standards of fairness on the Government in its dealings with tenders and contractors.

....Unless the action of tendering authority is found to be malicious and a misuse of its statutory powers, tender conditions are unassailable.

23. In *Global Energy Ltd. and Another Vs. Adani Exports Ltd. and Others*,], the Honourable Apex Court has held:

The principle is well settled that the terms of the invitation to tender are not open to judicial scrutiny and the courts cannot whittle down the terms of the tender as they are in the realm of contract unless they are wholly arbitrary, discriminatory or actuated by malice....

24. In *Master Marine Services Pvt. Ltd. Vs. Metcalfe and Hodgkinson Pvt. Ltd. and Another*, , the Honourable Apex Court has held that:

Principles of judicial review would apply to the exercise of contractual powers by Government bodies in order to prevent arbitrariness or favouritism. However, there are inherent limitations in exercise of that power of judicial review. The modern trend points to judicial restraint in reviewing administrative action. The court does not sit as a court of appeal but merely reviews the manner in which the decision was made. The court does not have the expertise to correct the administrative decision. If a review of the administrative decision is permitted it will be substituting its own decision, without the necessary expertise, which itself may be fallible. the government must have freedom of contract.... Quashing decisions may impose heavy administrative burden on the administration and lead to increased and unbudgeted expenditure.

The award of a contract, whether it is by a private party or by a public body or the State is essentially a commercial transaction. In arriving at a commercial decision, considerations which are of paramount importance are commercial considerations which would include, inter alia, the price at which the party is willing to work, whether the goods or services offered are of the requisite specifications and whether the person tendering is of the ability to deliver the goods or services as per specifications. The State can choose its own method to arrive at a decision and it is free to grant any relaxation for bona fide reasons, if the tender conditions permit such a relaxation.

25. In *Jagdish Mandal Vs. State of Orissa and Others*, the Honourable Apex Court has held:

When the power of judicial review is invoked in matters relating to tenders or award of contracts, certain special features should be borne in mind. A contract is a commercial transaction. Evaluating tenders and awarding contracts are essentially commercial functions. Principles of equity and natural justice stay at a distance. If the decision relating to award of contract is bona fide and is in public interest, courts will not, in exercise of power of judicial review, interfere even if a procedural aberration or error in assessment or prejudice to a tender, is made out. The power of judicial review will not be permitted to be invoked to protect private interest at the cost of public interest, or to decide contractual disputes. The tenderer or contractor with a grievance can always seek damages in a civil court. Attempts by unsuccessful tenders with imaginary grievances, wounded pride and business rivalry, to make mountains out of molehills of some technical/

procedural violation or some prejudice to self, and persuade courts to interfere by exercising power of judicial review, should be resisted. Such interferences, either interim or final, may hold up public works for years, or delay relief and succor to thousands and millions and may increase the project cost manifold. (emphasis by us)

26. All the above judgments of the Honourable Apex Court would make it undoubtedly clear that in matters of Government contracts, the scope of judicial review is very limited, so to say, until and unless arbitrariness and malafides are established by the parties, the Court should restrain itself from interfering into the same.

27. Now, we have to see as to whether any illegality on the part of the officials has been established by the petitioners, in awarding the contract to the 9th respondent, so as to cause our interference. No doubt, it would also be the duty of the Court to see as to whether the impugned action of the officials has caused any financial loss to the exchequer.

28. Much has been argued on the part of the petitioners stating that the contract has been awarded to the 9th respondent by some of the officials of AAI in a fraudulent manner, putting the State at a huge loss to the exchequer.

29. Viewed from this angle, it is to be mentioned that the country's superior investigative body-CBI has conducted an enquiry into the whole episode and filed its report, wherein it has been stated as follows:

7. It is submitted that Rule 92 of the Aircraft Rules, 1937 provides that the licensed public aerodromes shall, while providing ground handling services themselves, ensure the competitive environment and allow the ground handling services providers permitted by the Central Government to provide ground handling services at such aerodromes without any restrictions. These ground handling service providers shall however, be subject to security clearance of the Central Government. As such, it is for the central government to decide the agencies who can provide ground handling services at various aerodromes and also the eligibility criteria for such service providers. This petitioner has misinterpreted Rule 92 of the Aircraft Rules, 1937 that it is the discretion of the airline company to have their own ground handling services. A clear reading of the rule would show that the Central Government is the ultimate deciding authority to allow the ground handling services to those competent.

8. It is submitted that though the petitioner has agitated the inexperience of the 7th and 8th respondent and has alleged that this would cause injury to public safety, this petitioner has not demonstrated in which aspect such injury to public safety would be caused.

9. It is submitted that there was no substantial wrongful loss caused to the Airport Authority of India or the Central Government, which is an essential ingredient to make out any criminal offence against the respondent 7 to 10 & 12

in collusion with the concerned public servants.

10. It is submitted that during preliminary enquiry it is observed that the allegations of violation in tender procedures are departmental in nature and does not amount to criminality. Hence, the matter was referred for suitable departmental action against the said AAI officials.

30. While that being the position, we are not able to appreciate the contention of the petitioners that only with an ulterior motive, Chennai and Kolkata Airports were clubbed together by the officials, since the said decision is not only a policy decision of the Government, but the same has also not caused any financial loss to the AAI or the Government of India. In a commercial contract matter like the one in hand, if a free hand is not given to the Government, it would result in loss to the exchequer. Though the petitioners hurled many allegations against the petitioner, they have not substantiated any of those allegations, as has been pinpointed by CBI. As the CBI has deeply gone into the matter and has filed the above report, the other point urged on the part of the petitioners that the Honourable Minister himself has made a statement that some irregularities were committed by the authorities at the helm of affairs cannot either be appreciated or put against the successful bidder/the 9th respondent, in the absence of the said Minister having been made a party to the present proceedings and in the absence of any material as against the report filed by the CBI.

31. The other allegation of the petitioners that on account of grant of the contract to the respondent No. 9, several other ground handling companies which have been working as ground handlers at the airports for several years, got terrible loss, also cannot be accepted for the simple reason that AAI is very categorical in its stand that there was no authorisation given to private agencies to undertake ground handling at airports previously and they have noticed that airline companies which were supposed to be doing the job themselves, were really outsourcing the work to third parties without the consent or permission of AAI and these outsource agencies were not ground handling companies but were really manpower providers who had no experience or expertise in the job. Further more, as has already been state supra, the issue concerning the airlines alleged right to self-handling was decided against the airlines by the Delhi High Court in W.P.(C) No. 8004 of 2010. That being the case, no right would flow to these airline companies, that too at the cost of the upheld policy decision of the AAI to go in for tenders to do the work, so as to say that what has been done by AAI is either illegal or arbitrary.

32. A thorough scrutiny of the entire materials placed on record, by us, would not exhibit any unreasonableness on the part of the official respondents and there is no material to show that the conditions of the tender were tailor-made to suite the 9th respondent as has been falsely alleged on the part of the petitioners. We are also not able to find any malicious attitude exhibited or misuse of statutory powers made on the part of any of the authorities at the helm of affairs, so as to find fault with the decision of the official respondents in

awarding contract to the 9th respondent.

33. Even with regard to the allegation of the petitioners that the lead member Novia International does not have five years experience in ground handling, as has been admitted by the official respondents themselves, it is to be mentioned that M/s. Novia International Consulting APS as the professional/technical partner has more than 45 years of experience in providing ground handling services. In New Horizons Limited and Another Vs. Union of India (UOI) and Others, the Honourable Apex Court has held in clear terms that "experience of constituents of the joint venture company should be treated as its own experience". Following the above judgment of the Honourable Apex Court, we find no illegality or irregularity in the official respondents treating the experience of the joint venture company as that of the 9th respondent.

As held by the Honourable Supreme Court in Michigan Rubber case, the scope of interference by the Court in contractual matters is very limited. Further, the tender issuing authority/AAI has fully justified its policy decision and no bias or mala fide on the part of any authority or person connected to the entire episode of awarding the contract to the 9th respondent has been established by the petitioners. Even from the report of the CBI, extracted supra, it is very clear that no substantial wrongful loss has been caused to the AAI or the Central Government. While that being the case, we cannot appreciate any of the allegations made on the part of the petitioners.

Therefore, for all the above reasons and in view of the above judgments of the Honourable Apex Court, coupled with the report of the superior investigative agency of the country-CBI that no substantial wrongful loss has been caused to the AAI or the Central Government, we have no doubt to hold that both these writ petitions are nothing but vexatious litigations filed only to wrongfully restrain the successful bidder/the 9th respondent from commencing its operations, and accordingly, they are dismissed. No costs. Connected M. Ps. are closed.