

E.D.P. Consultants and ors. Vs. Delhi Development Authorities and ors.

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Court : Delhi

Decided On : Aug-24-1990

Reported in : 42(1990)DLT368

Judge : B.N. Kirpal and; Santosh Duggal, JJ.

Acts : [Constitution of India](#) - Article 226

Appeal No. : Civil Writ Petition No. 2394 of 1990 and Civil Miscellaneous Appeal No. 3574 of 1990

Appellant : E.D.P. Consultants and ors.

Respondent : Delhi Development Authorities and ors.

Advocate for Pet/Ap. : Keshav Dayal,; P. Dayal,; R. Dayal,;

Judgement :

B.N. Kirpal, J.

(1) The challenge in this writ' petition is to the acceptance of the tender of respondent No. 5 for carrying out a work of computerization of the lottery accounts of all the five schemes of lottery run by Delhi Lotteries.

(2) It is an admitted case that the petitioners had an agreement dated ' 11th November, 1988 with effect from 15th July, 1987, whereby they were given the

charge of computerising the accounts and they were to be paid 14 paisa per prize winning ticket and 14 paisa per prize winning counterfoil. The Delhi Lotteries invited tenders for according a fresh contract. Tenders were submitted by the petitioners as well as respondent No. 5. In respect of three schemes the petitioners quoted a rate of 10 paisa and in respect of two schemes they quoted rate of 6 paisa. It was further stated in the offer of the petitioners that if the sale of five lotteries went up to 18 lacs then there would be a price reduction of half paisa which would be given to all the single digit lotteries. The respondent No. 5 quoted a price of 6.3 paisa per prize winning ticket counterfoil for each lottery.

(3) The case of the petitioners is that the offer of the petitioners, taking all the five lotteries together, was lower than that of respondent No. 5 and, therefore, the petitioners' tenders should have been accepted. The petitioners have alleged malafides against the officers of the respondent who, according to the petitioners, entered into negotiations with respondent No. 5 which has resulted in the said respondent No. 5 reducing his offer.

(4) We may at this stage note that after the tenders were opened the Delhi Lotteries entered into negotiations with both the petitioners as well as respondent No. 5. As a result of this negotiation the petitioners reduced their quotation to 5.38 paisa per prize winning ticket/counter foil on the condition that work of all the lotteries be awarded to them. Respondent No, 5 on the other hand, reduced his quotation to 4.9 paisa per prize winning ticket/counter- foil. The position, therefore, as stands today, is that, after negotiations, offer of respondent No. 5 is the lowest.

(5) It is contended by Shri Keshav Dayal that, apart from malafides of the respondent officers who wanted to favor respondent No. 5, the financial norms have been violated and the Delhi Lotteries could not have entered into negotiations.

(6) We are unable to accept the aforesaid contention of the petitioners. It was the duty of Delhi Lotteries, which deal with public money, to see that it can enter into a most favorable contract. It was under obligation to pay lesser price, if it could. The respondent Delhi Lotteries, was venturing only in the field of commerce and while

entering into a commercial transaction it is well known and accepted that negotiations do take place in an effort to reduce the cost. This is precisely what has happened in the present case. It is not as if negotiation took place only with respondent No. 5, if negotiations had been restricted to respondent No. 5 then the petitioners could have had a justifiable grievance. Delhi Lotteries negotiated with both the petitioners and respondent No. 5 and both these tenders reduced their quotation. Rather than finding fault with this action of the Delhi Lotteries their work has, in fact, to be commended because the negotiations, which they have entered into, have ultimately resulted in the reduction from 14 paisa per ticket which was being paid to the petitioners under their agreement of 1988 to the new rate of 4.9 paisa per ticket. The reduction is by merely 2/3rd. If any fault can be found with the action of the respondents that can be only that having opened the files in April, 1990 and having ascertained that the rates quoted were lower than 14 paisa which was being paid to the petitioners there was a delay in ultimately concluding a fresh contract. Be that as it may negotiations having been entered into with both the parties the principle of fair play has been adhered to and we are unable to agree that there has been any arbitrariness on the part of the Delhi Lotteries.

(7) We are also not impressed with the allegations of malafides. Curiously enough in the application filed for production on record the petitioners have quoted in extents from the various documents of the file of Delhi Lotteries while at the same time the petitioners are accusing the employees of Delhi Lotteries in colluding with respondent No. 5. It is safe to presume that the petitioners could have obtained information from the files of Delhi Lotteries only from their 'contacts'. It does not, therefore, lie in their mouth to accuse respondent No. 5 of getting favor from the officers of the Delhi Lotteries. Be that as it may we find that respondent No. 5 has not obtained any favor from Delhi Lotteries inasmuch as the quotation of respondent No. 5, after negotiations, is lower than that of the petitioners. If the officers of the Delhi Lotteries were making an effort to get a lower quotation from respondent No. 5 then, as we have already observed, that effort was in the interest of Delhi Lotteries and we do not find any infirmity therein.

(8) For the aforesaid reasons, this writ petition is dismissed in limine. Interim orders are vacated. It will be open to the petitioners to seek their remedy against

Delhi Lotteries for realisation of any money due to it, if any, on account of the the work alleged to have been done by the petitioners up to 24th July, 1990.

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