

Amar Detectives and Consultancy Vs. Union of India (Uoi) and ors.

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Court : Delhi

Decided On : Jan-30-2006

Reported in : III(2006)BC258; 2006(1)CTLJ183(Del); 2006(87)DRJ449

Judge : Markandeya Katju, C.J. and; Madan B. Lokur, J.

Acts : [Institutes of Technology Act, 1961](#); Constitution of India - Article 226

Appeal No. : W.P (C) No. 2297/2005

Appellant : Amar Detectives and Consultancy

Respondent : Union of India (Uoi) and ors.

Advocate for Def. : Maninder Singh, ; Girish Mishra and ; Bhismadev, Advs.

Advocate for Pet/Ap. : S.M. Dalal, Adv

Disposition : Petition dismissed

Judgement :

Markandeya Katju, C.J.

1. This writ petition has been filed for a mandamus restraining the respondent No. 2, IIT Delhi from implementing the contract awarded to respondent No. 3 the M/s Security Intelligence Services, New Delhi for providing trained security guards for protecting the premises and property of respondent No. 2. Petitioner has prayed

for a mandamus directing the respondent No. 2 to award the said contract to the petitioner having offered the lowest tender.

2. Petitioner has alleged that it is a professional security agency and is run and managed by Ex-servicemen. It is alleged in paragraph 2 of the petition that the Ministry of defense issued a circular dated 4.2.1994 vide annexure P1 to the writ petition by which it was requested that all public sector undertakings, autonomous bodies and all other organizations/establishments under the administrative control of the Ministries should approach the DGR for sponsoring Ex-servicemen's Security Agencies on its panel without engaging security agencies on contract through open tenders.

3. It is alleged in paragraph 7 of the writ petition that in May, 2004 a notice inviting tenders was issued for award of fresh security contract instead of approaching the DGR to sponsor Ex-servicemen Security Agencies on its panel. A true copy of the Notice Inviting Tender issued by respondent No. 2 is annexure P4 to the writ petition. It is alleged that this notice is contrary to the aforesaid Government of India's directive order dated 4.2.1994.

4. The petitioner also submitted its tender but the contract has been awarded to respondent No. 3, though its rates were far in excess of the rates quoted by the petitioner. Also the respondent No. 3 is not a DGR sponsored security agency.

5. A counter affidavit was filed by the IIT and we have perused the same.

6. We also have perused the counter affidavit filed by respondent No. 3. In paragraph 4 thereof, it is stated that the directive of the Government of India does not apply to respondent No. 2, the Indian Institute of Technology as it is not a Public Sector Undertaking and is not under the administrative control of the Government of India. The IIT is governed by the [Institutes of Technology Act, 1961](#) which is a parliamentary law. Hence, the said Government of India order dated 4.2.1994 does not apply to the IIT.

7. In the counter affidavit filed by the IIT, it is stated in paragraph 9 dated 26.3.2004 that a high powered committee was constituted by the IIT for the

purpose of finalization of the contract. The Committee noticed that no security agency which applied for this tender was registered with the DGR, though the petitioner was making a claim to that effect. At any event the competent authority of the IIT decided that it would go for the process of tender for the award of the security contract. Deliberations were held and the matter was discussed by the Committee.

8. In paragraph 10 of the counter affidavit, it is stated that the sub-committee constituted for this purpose had held its meeting on 24.7.2004 in which it was decided to seek clarification and documents from the petitioner regarding the eligibility conditions. The petitioner submitted a response dated 29.7.2004 vide annexure R-1 to the counter affidavit engaging certain documents. A perusal of this letter dated 29.7.2004 showed that the petitioner did not give any response to the basic query regarding the names of those clients and places where it had deployed security staff of 150 at one location. The other condition of submitting a bank solvency certificate of Rs. 25 lacs was also not fulfilled.

9. In paragraph 12 of the counter affidavit, it is stated that though the petitioner's rates were lowest, it had not satisfied the conditions of the tender and hence it was not granted the contract.

10. In paragraph 14 of the counter affidavit, it is stated that representatives of the petitioner were present in the meeting of the sub-committee held on 31.7.2004. In the said meeting they admitted that they did not have any client to whom they had provided security staff of 150 or more in one location. They do not have CTC of wireless license issued by the Government of India and experience in handling of ACS & CCTV. They only submitted a bank statement but the bank solvency certificate for Rs. 25 lacs was not submitted.

11. In view of the facts stated in the counter affidavit of the IIT it has to be held that the contract could not be awarded to the petitioner as he did not fulfill the eligibility requirements. The petitioner clearly suppressed the letter dated 29.7.2004 in the writ petition.

12. A perusal of the said letter shows that the petitioner has failed to fulfill the conditions of the tender. Thus, petitioner has not come with clean hands, and for this reason also he is not entitled to the discretionary relief under Article 226.

13. There is no force in this petition and it is dismissed.

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