

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5811 of 1988

For Approval and Signature:

Hon'ble MR.JUSTICE J.M.PANCHAL

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
5. Whether it is to be circulated to the Civil Judge? : NO

SHREE CATERERS

Versus

NATIONAL AIRPORT AUTHORITY

Appearance:

PARTY-IN-PERSON for Petitioner
MR JD AJMERA for Respondent No. 1
MR ASHWIN L SHAH for Respondent No. 2, 3

CORAM : MR.JUSTICE J.M.PANCHAL

Date of decision: 28/04/2000

ORAL JUDGEMENT

#. By means of filing this petition under Article 226 of the Constitution of India, the petitioner which is a Private Limited Company registered and incorporated under

the provisions of the Companies Act, has prayed to issue a writ of mandamus or any other appropriate writ order or direction, declaring that the action of the National Airport Authority (herein after referred to as the Authority) in accepting the tender of M/s Cama Caterers which is a unit of Cama Hotels Ltd for catering services at civil aerodrome at Ahmedabad is ultravires Article 14 of the Constitution. The petitioner has further prayed to direct the Authority to accept the tender of the next highest tenderer out of the remaining tenderers.

#. An advertisement in the newspaper inviting tenders for catering service at civil aerodrome at Ahmedabad was issued by the Authority. The Authority had received 6 tenders submitted by

1. Cama Hotels, Ahmedabad
bid amount Rs. 18,000/- p.m.
2. Cama Caterers, Ahmedabad
bid amount Rs. 25,100.00 p.m.
3. M/s Shree Caterers, Ahmedabad
bid amount Rs. 19,250.00 p.m.
4. M/s Navraj Caterers, Ahmedabad
bid amount Rs. 14,000.00 p.m.
5. Shri Pradipkumar Mathur, Ahmedabad
bid amount Rs. 12,000.00
6. Smt.. Dharmavati, Ahmedabad
bid amount Rs. 16,000.00 p.m.

The tenders were opened on April 18, 1988 in the presence of the representatives of all the parties concerned and ultimately as M/s Cama Caterers, Ahmedabad was found to be highest bidder, its tender was accepted. According to the petitioner respondent no.2 is a registered company while respondent no.3 is simply a unit of respondent no.2 and therefore, one person having submitted two tenders, the tender of M/s Cama Caterers should not have been accepted. The petitioner has averred in the petition, that equal opportunity to compete is denied to other classes of offerers and since one offerer is permitted to bid, more than once, the element of competition is lost and therefore, the action of the respondent no.1 in accepting the tender of respondent no.3 being violative of the provisions of Article 14 of the Constitution, should be set aside. Under the circumstances the petitioner has filed the present petition and claimed the

reliefs to which reference is made earlier.

#. It may be stated that the petition was placed for admission hearing before the learned single Judge of this Court who had issued "Rule" making it returnable on December 12, 1988 and had also issued notice calling upon the respondents to show cause as to why the interim relief should not be granted. Notice as to interim relief was made returnable on September 2, 1988 and till then the respondents were directed to maintain status quo. However, on September 29, 1988 the following interim order was passed:

"By way of interim relief, it is directed that respondent no.1 while executing the contract in favour of respondent no.3 would make it clear to respondent no.3 that the contract will be subject to the result of this petition Mr. Shah appearing for respondent no.3 states that respondent no.3 has no objection if such a condition is inserted in the contract."

#. On Notice being served Mr. R.S.Bhagwat the Controller of Aerodromes has filed reply affidavit controverting the averments made in the petition. In the reply what is emphasised is that there is no prohibition or restriction in not submitting two tenders by the same person in the name of two different units and acceptance of tender of highest bidder cannot be said to be arbitrary or illegal so as to warrant interference of the court in the petition which is filed under Article 226 of the Constitution. It is also pointed out that one of the tenderers i.e. M/s Navraj Caterers had filed Civil Suit No.. 479 of 1988 in the Civil Court at Narol claiming the same reliefs and the court has disallowed the application for interim injunction vide order dated August 23, 1988. By filing reply the deponent has demanded the dismissal of the petition.

#. The learned counsel representing the petitioner was elevated on Bench and though petitioner is served with notice, calling upon him to make alternative arrangement, he has not remained present either in person or through an Advocate. I have considered the averments made in the petition and documents forming part of the petition. As averred by the petitioner in para 12 of the petition the contract for catering services at Civil Aerodrome at Ahmedabad was to be for a period of 3 years. Learned advocate for the respondent has informed the court that after the period stipulated in the contract was over, fresh contracts were also awarded to different parties by

the Authority. The whole purpose of inviting tenders is to see that there should be a competition and public body gets maximum benefit of the income. The petitioner was given opportunity to compete and on consideration of different facts the Authority had decided to accept the highest bid offered by respondent no.3. There is no prohibition or restriction stipulating that two tenderers of same person in the name of 2 different units cannot be submitted. It is to be noticed that respondents nos 2 and 3 had submitted different tenders and after the tenderers had competed amongst themselves, the offer of respondent no.3 being highest was accepted. The record does not indicate in any manner that the action of respondent no.1 in accepting the tender of respondent no.3 is either arbitrary or illegal in any manner so as to warrant interference of the court in the present petition. The petition therefore is liable to be dismissed.

#. For the foregoing reasons the petition fails. The Rule is discharged with no order as to costs. Interim relief granted earlier is hereby vacated.

(J.M.Panchal.J)

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