

WRIT PETITION NO. 59 OF 2003

1. Central Investigation &
Security Services Limited
a company incorporated under
Companies Act, with its Head
Office at Block Q Dalal Estate,
Mumbai Central Bridge,
Mumbai 400 008, through its
Constituted Attorney
Shri Pradeep Kadkade
r/o 207, Ankur 'B'
Liberty Garden RD No.3
Malad(W) Mumbai 400 064.
2. Shri T. S. Panchpakeshan
Director of Petitioner No.1
r/o 610, Varun Co-operation
Housing Society,
Versova Andheri (West),
Mumbai. Petitioners.

versus

1. Goa State Co-operative
Milk Producers Union Ltd.,
a Company registered under the
Indian Companies Act, with its
Office at Curti, Ponda-Goa.
2. Kings Intelligence Services
with its office at Rawanfond,
Margao-Goa. Respondents.

Mr. M. S. Usgaonkar, Senior Advocate with Mr. Sudesh
Usgaonkar, Advocate for the Petitioners.

Mr. A. F. Diniz, Advocate for Respondent No.1.

CORAM: S. J. VAZIFDAR &
P. V. HARDAS, JJ.

DATED 31ST MARCH, 2003.

ORAL JUDGMENT (PER S. J. VAZIFDAR, J.)

The Petitioners have challenged the award of contract of Security Services by Respondent No.1 to Respondent No.2. The Petitioners in answer to the tender notice for providing Security Services submitted their tender for the same. The Petitioners were invited by letter dated 4th January, 2003, of Respondent No.1 to discuss the matter relating to the said tender. Ultimately, the tender was issued by Respondent No.1 to Respondent No.2. The same is impugned on the basis that the Petitioners' tender were lower than that of Respondent No.2.

2. Respondent No.2 has opposed this Petition on several grounds. Firstly, it is submitted that a writ does not lie under Article 226 of the Constitution of India against Respondent No.1 for the reason that Respondent No.1 is not an "authority" within the meaning of that expression under Article 12 of the Constitution of India. In support of the submission, reliance is placed on a Division Bench Judgment of this Court dated 5th August, 1999 in the matters of **Mrs, Supriya R. Kulkarni v. The Madgaum Urban Co-operative Bank Limited and others** and **Nandkumar Nivrutti Baptivale v. Automotive Research Association of India and others** reported in 2002(4) B.C.R. 231. It is, however, not

necessary for us to decide this question finally as we do not see any merits in the Petition either.

3. The difference between the tender quoted by the Petitioners and Respondent No.1 is just over Rs.1000/- per annum. Respondent No.1 has submitted that the difference being negligible they decided to award the contract to Respondent No.2 in view of certain advantages to Respondent No.1. For instance Respondent No.2 had been recommended by various organisations within the State who had experience of the past performance of Respondent No.2. Further, Respondent No.2 has an Office in Goa which would naturally be more advantageous for coordination so far as Respondent No.1 is concerned. Moreover, though not conclusive by itself, it is pertinent to note that for security guards who form the bulk of the personnel to be deployed, the rate quoted by Respondent No.2 was lower than that quoted by the Petitioners. Thus in the event of further guards being required this would be to the advantage of Respondent No.1.

4. In the circumstances, we are unable to state that the decision taken by Respondent No.1 to award the contract to Respondent No.2 and not to the Petitioners is mala fide or is vitiated for any other reason.

5. In the circumstances, this Petition is dismissed with no order as to costs.

S. J. VAZIFDAR, J.

P. V. HARDAS, J.

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