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2024:CGHC:50265-DB

**NAFR**

## **HIGH COURT OF CHHATTISGARH AT BILASPUR**

### **WPC No. 6451 of 2024**

- S S Multi Services Proprietor Surendra Kumar Shukla, S/o Parmanand Shukla, Aged 46 Years Registered Office- No. 710 Zion Building, Plot No. 273, Sector- 10, Kharghar, Navi Mumbai- 410210. Through Authorised Representative, Mr. Jitendra Kumar S/o Jangi Lal Age 32 Years R/o Utrao, Utarava, Allahabad (Prayagraj) U.P.

**... Petitioner(s)**

**versus**

1. Union of India Through Its Principal Secretary, Ministry Of Civil Aviation, Having Its Office At Rajiv Gandhi Bhawan Block B, Jorbagh Safdarjung Airport Area, New Delhi- 110003.
2. Airport Authority Of India Through Its Chairman, Having Its Corporate Office At Rajiv Gandhi Bhawan, Safdarjung Airport, New Delhi- 110003.

3. The Executive Director (Commercial) Airport Authority Of India,  
Rajiv Gandhi Bhawan, Safdarjung Airport, New Delhi- 110003.
4. The Airport Director Airport Authority Of India, Swami Vivekanand  
Airport, Raipur, 492015.
5. Santosh Tiwari S/o Shri Chandrabhushan Tiwari Aged About 45  
Years Occupation- Business, Proprietor Of M/s Anjaney Enterprises,  
Having Its Office At 142 Banerjee Layout, Bhagwan Nagar, Nagpur,  
Maharashtra- 440027

**... Respondent(s)**

For Petitioner	:	Mr. Anuj Sharma, Advocate.
For Respondent No. 1/Union of India	:	Ms. Annapurna Tiwari, Advocate.
For Respondent No. 2, 3 & 4	:	Mr. Aman Saxena, Advocate.

**Hon'ble Mr. Ramesh Sinha, Chief Justice**  
**Hon'ble Mr. Amitendra Kishore Prasad, Judge**

**Order on Board**

**Per Ramesh Sinha, Chief Justice**

**20/12/2024**

1. Heard Mr. Anuj Sharma, learned Advocate for the petitioner, Ms. Annapurna Tiwari, learned Advocate for Union of India and Mr. Aman Saxena, learned Advocate for respondents No. 2, 3 & 4.
2. The present writ petition has been filed by the petitioner seeking following reliefs:-

*“10.1. Call for the entire records concerning the case of the petitioner from the respondents for its kind perusal.*

*10.2. Issue a writ/order/direction directing the Respondent AAI to disqualify the Private Respondent and consider the case of the Petitioner for awarding the tender bearing E-Tender ID No. 2024\_AAI\_214094\_1 published on 11.11.2024 floated by the Respondent AAI.*

*10.3. Any other relief/reliefs which this Hon'ble Court may think fit and proper in the facts and circumstances of the case”.*

3. Brief facts of the case, is that, the petitioner, SS Multi Services, began as a small parking contractor in 2003 and has since grown into a diversified company. The Airport Authority of India (AAI) has received various complaints regarding operating of parking by the private respondent during its period of operation of 5 (five) years, the tender awarded to it was not extended. Against the non-renewal of the contract, the private respondent approached this Hon'ble Court by way of filing WPC No. 4885 of 2024 which was dismissed by this Hon'ble Court vide its order dated 27.09.2024. A short-term tender was floated by AAI wherein the petitioner was declared successful bidder and Letter of Award

[LoA] was issued by the respondent AAI on 07.10.2024 in relation to the short-term license for operating automated vehicle parking management system collection of parking fees and excess time fees rights at Swami Vivekananda Airport, Raipur for a period of six months w.e.f. 28.10.2024. During the continuance of the contract of the petitioner, AAI invited E-tenders for award of Concession to Supply, Install, Test, Commission (SITC) and Operate Automated Vehicle Parking Management System; Collection of Parking Fees and Excess Time Fees Rights at Swami Vivekananda Airport wherein the petitioner has participated. It is submitted that the last date of submission of tender was 25.11.2024 and subsequently technical bid was open by the respondent AAI on 26.11.2024 wherein the petitioner and the private respondent was declared as qualified. Thereafter financial bid was open by the respondent AAI wherein the private respondent company was declared as HI (successful) bidder. Since, the respondent AAI has again declared private respondent as a successful bidder knowing that during the earlier period of contract, they have received various complaints against the private respondent regarding over-charging and misbehaving with the customers, the petitioner sent a letter dated 03.12.2024 to the respondent AAI requesting to look in the issue. Since no action was taken by the respondent AAI on the letter sent by the

petitioner, another letter dated 14.12.2021<sup>14</sup> was sent by the petitioner wherein apart from raising concerns regarding past performance of the private respondent, petitioner herein, being H2 bidder, has given its unequivocal consent informing AAI that the petitioner is ready to match the bid of the H1 bidder. Since the respondent AAI has overlooked the previous conduct of the private respondent because of which his earlier contract was not extended and have again declared him as a successful bidder which will cause loss to the public exchequer and will also affect the rights of public at large and have also not given heed to the request of the petitioner whereby he had given its consent for matching the bid of H1 bidder.

4. Learned counsel for the petitioner submits that declaration of the private respondent as H1 bidder affects the rights of the petitioner enshrined under Article 14, 19 and 21 of the Constitution of India as the action of the respondent is arbitrary. He further submits that respondent authority failed to appreciate that during the term of earlier contract between AAI and the private respondent, which had clause for extension, was concluded and no extension was granted considering the performance of the private respondent. He further submits that respondent authority failed to appreciate that the private respondent, during the tenure of earlier contract, was

overcharging and misbehaving with the travelers and the authority has received various complaints against the same. It is submitted that because of the poor performance and complaints received by the Authority, the contract of the private respondent was not extended. He further submits that LOA dated 07.10.2024 issued to the petitioner came in to effect on 28.10.2024 and is valid for a period of 6 months. It is submitted that floating a fresh tender during the tenure of the petitioner for the same work violates the rights of the petitioner enshrined under the Constitution of India. He further submits that due to arbitrary action of the respondent authority, not only the rights of the petitioner but also the rights of Public at Large is affected making it a fit case for exercise of power by this Hon'ble Court under Article 226 of the Constitution of India. He further submits that without any change in circumstances the respondent has qualified private respondent's technical bid ignoring the past performance of the private respondent which is arbitrary and hence violative of the rights of the petitioner enshrined under the Constitution of India. He further submits that as per the knowledge of the petitioner, on an earlier occasion, the respondent AAI had written letters to the Ministry regarding unsatisfactory performance and complaints received by the AAI regarding over-charging and unruly behavior of the private

respondent and despite the aforesaid, the private respondent's technical bid was accepted. He further submits that the petitioner herein is already working on the said parking to the utmost satisfaction of the Authorities and the respondent authorities before the completion of the tenure of the petitioner had floated a fresh tender wherein the private respondent was declared H1 bidder which violates the rights of the petitioner. Hence, this petition.

5. On the other hand, learned counsel for respondent No. 2, 3 & 4 has submitted that that the complaint which has been filed by the petitioner against the private respondent No. 5 who has been declared L1 is under process by the concern competent authority.
6. We have heard learned counsel for the parties and perused the material available on record.
7. Considering the above submissions made by the parties, the instant petition appears to be a premature one. Hence, we do not find any good ground to interfere in the matter at this stage.
8. Accordingly, the petition is hereby **dismissed**, leaving it to open to the petitioner, if in *futuro* he is aggrieved by any action of the respondents he may take recourse to law for redressal of his grievances.

Sd/-  
**(Amitendra Kishore Prasad)**  
**Judge**

Sd/-  
**(Ramesh Sinha)**  
**Chief Justice**