

Sapphire Media Services vs Delhi Metro Railway Corporation Ltd on 21 March, 2018

Author: S. Ravindra Bhat

Bench: S. Ravindra Bhat, A. K. Chawla

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* IN THE HIGH COURT OF DELHI AT NEW DELHI
+ W.P.(C) 2745/2018 & CM APPL. 11176-11177/2018
SAPPHIRE MEDIA SERVICES Petitioner
Through Mr. Shiv Venkatesh, Mr. Varun Singh
and Mr. Vikas Maini, Advs.
versus

DELHI METRO RAILWAY CORPORATION LTD. Respondent
Through Ms.Vibha Mahajan Seth, Adv.

CORAM:
HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MR. JUSTICE A. K. CHAWLA
ORDER

% 21.03.2018 The petitioner's grievance is that the respondent-DMRC by the impugned order cancelled the tender process.

The tender in this case was for awarding exclusive advertising rights inside selected metro stations of Line 7 in the DMRC Network. It is pointed out that the objectives of the bid were to propagate the Delhi Metro as a brand and not merely maximise its revenue through advertisement and having regard to these considerations and also the circumstance that the bid nowhere indicated floor or minimum price, the reason given i.e. that the petitioner's tender was "found on the lower side", is untenable and arbitrary. It is furthermore urged that clause 6.2 of the tender documents merely stipulated that once the price bid is opened, DMRC was restricted from rejecting the bid and had to proceed with the process.

From the above discussion it is apparent that the petitioner's grievance is with respect to the cancellation of the bid even after the price bid was opened. The tender undoubtedly nowhere indicates the floor or minimum price. At the same time, the Court is unpersuaded with the argument that absence of floor price in any way binds DMRC to award the contract to a bidder, who is lowest in the bid process. Quite possibly, a public agency may have good reasons not to disclose minimum price that it may accept for manifold reasons. As far as the allusion to clause 6.2 is concerned, the Court is of the opinion that, that stipulation has no application because it binds the authority to proceed with the process but in no way restrains it from cancelling the tender process, as it has done. Furthermore, regardless of the tender conditions, it is open to the authority to withdraw from the process upon an overall evaluation of the response.

In view of the above discussion, the petition is unmerited; it is accordingly dismissed.

S. RAVINDRA BHAT, J A. K. CHAWLA, J MARCH 21, 2018 rc