

Official Liquidator vs 1 on 27 February, 2024

Author: Dharmesh Sharma

Bench: Dharmesh Sharma

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IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment reserved

Judgment pronounced

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ADMIN REPORT No. 5/2023 & ADMIN
No.19/2023 in VARIOUS COMP. (MISC.)
OFFICIAL LIQUIDATOR

Through:

versus

1

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Through:

CORAM:

HON'BLE MR. JUSTICE DHARMESH SHARMA

ORDER

% 27.02.2024 CO. APPL. 3/2023, CO. APPL. 4/2023

1. This order shall dispose of two applications viz., (i) CO. APPL. 3/2023 moved on behalf of the applicant/Devender Chaudhary, Director of Devender Worldwide (OPC) Pvt. Ltd. and (ii) CO. APPL. 4/2023 moved on behalf of Mr. Sanjay Raghuvanshi, partner of M/s Manasvi Security Service, seeking quashing of the entire tender process initiated by the Official Liquidator vide Notice Inviting Tenders (NIT) bearing No. OL/Delhi/Security Agencies/Empanelment /2023/313 dated 20.07.2023.

1 Various parties are involved and the title of the case is reflected as such.

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2. At the outset, the applications are inter alia challenging certain directions which have been passed by this Court on the administrative side in respect of such tender process.

FACTUAL BACKGROUND

3. Shorn off unnecessary details, this Court vide order dated 11.07.2023 considered and dealt with the report of the Official Liquidator regarding the requirement of engagement of security agencies for deployment of security staff/guards to safeguard the assets of various companies (in liquidation) undergoing winding up proceedings that are undertaken by the office of the Official Liquidator as per law. This Court passed the following directions:

"3. There were 13 security agencies which were on the panel of the OL. The Report informs the Court that three agencies have withdrawn from the panel and M/s. Smag Facility Management Pvt. Ltd. was dropped from the panel initially itself as it had failed to pay the necessary security deposit. Thus, currently there are 9 security agencies which are active in the panel.

4. The above panel was constituted, prior to pandemic, in the year 2019 and has been functioning for approximately four years. No fresh panel has been constituted in the meantime. Thus, the OL has recommended issuance of advertisement for the constitution of a fresh panel.

5. This Court is of the opinion that since the existing panel has already been functional for a considerable period of time, a fresh panel ought to be constituted. Accordingly, let OL commence steps for constituting a fresh panel in exercise of powers under Section 457 of the Companies Act, 1957. In view of the same, the following directions are being issued:

a) Let the OL issue advertisements in two leading newspapers i.e., Hindustan Times (English edition) and one Hindi newspaper at DAVP rates as also put up a notification on the website of the Official Liquidator and Ministry of Corporate Affairs. Payment for the same shall be paid from the common Pool Fund.

b) The applications received in respect of the Panel shall be then This is a digitally signed order.

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(i) Ms. Ruchi Sindhwani Senior Standing Counsel

(ii) Mr. Tejveer Singh Bhatia Advocate

(iii) Mr. Vineet Rai Deputy Official Liquidator

6. The above Committee shall make recommendations as to the names of the Security Agencies for approval by the Court for empanelment. 7. Let the advertisement be issued within the next two weeks. The meeting of the Committee be held within four weeks thereafter. Let a final report be put up.

8. List on 6th October, 2023."

{Bold portions emphasized}

4. Mr. Vivek Tankha, learned Senior Counsel appearing for the applicants, has drawn the attention of this Court to the order dated 20.10.2023, passed by a Division Bench of this Court in W.P.(C) 13916/2023 and CM APPLs. 54981/2023 and 54982/2023 (Annexure A-13), whereby the entire process of notice of the tender was challenged and the Hon ble Judges in the Division Bench came to pass the following directions:

"3. The record reveals that the applications submitted by the Petitioners under the Subject NIT were rejected by the Committee vide Minutes of Meeting of the Committee Dated 25.08.2023. The rejection of the Petitioners applications was further approved by the Company Judge vide order dated 06.10.2023 in Administrative Report No. 5/2023.

4. From a perusal of the record, it appears that the grievance of the Petitioners relates to the constitution of the Committee under Clause 5 of the Scheme. As the Committee was constituted as per the order of the Company Court, the appropriate forum to address the grievances raised by the Petitioners would be the Company Court. We are therefore of the opinion that the Petitioners should approach the Company Court by filing an appropriate application to agitate the contentions raised in the present writ petition.

5. In case such application is preferred, the Company judge shall consider all the grounds raised by the Petitioners and decide the matter, in accordance with law.

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6. In light of the aforesaid, the writ petition stands disposed of. It is clarified that all the rights and contentions of the parties are left open." {Bold portions emphasized}

5. Learned Senior Counsel, throwing weight on his submissions as regards the portion of the directions in above-stated paragraph (5) has alluded to the Scheme for the Selection, Empanelment and Appointment of Security Agencies, 2010

(hereinafter referred to as the „Scheme) framed in accordance with the powers conferred under Section 457 in specific clause (d) of sub-section (1) of Section 457 of the Companies Act, 1956 to buttress the point that the Selection Committee was not properly constituted, and in particular, he referred to the following clauses which come up for consideration :

"4. PERIOD FOR PANEL OF THE SECURITY AGENCY A panel containing the names of the agencies approved by the Committee for appointment in particular cases shall be valid for two years from the date of its approval by the Company Court.

5. COMMITTEE FOR EMPANELLING THE SECURITY AGENCY On the receipt of the applications from the Security Agencies in terms of the notice for inviting such applications, for empanelment, the Company Court shall constitute a committee of the following members for recommending the panel of Security Agencies.

(a) Official Liquidator Two other members nominated by the Company Court, who may have appropriate administrative experience or may have dealt with security aspects of any establishment/office.

6. CONSIDERATION FOR THE EMPANELLING OF THE SECURITY AGENCIES The Committee at the time of making the recommendation for the empanelment of Security Agencies shall take into consideration such factors as may be considered relevant, including :

(a) Their registration under the Act;

(b) Past record of the Security Agency for a minimum of three This is a digitally signed order.

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(c) The capacity for providing service in terms of manpower, uniforms, weapons & other accessories;

(d) Willingness to abide by the terms and conditions laid by the Company Court/Official Liquidator for providing the security cover;

(e) Financial fundamentals of the company; and

(f) Their past record on statutory compliances under Minimum Wages Act, Provident Fund etc.

7. EMPANELLING OF THE SECURITY AGENCIES The Company Court after considering the recommendations of the Committee may accept its recommendations and direct the empanelment

of the Security Agencies so recommended or pass such orders as it may consider appropriate."

6. Learned Senior Counsel then invited the attention of this Court to the affidavit cum reply filed by Ms. S. Meenakshi, Official Liquidator dated 05.02.2024, which is somewhat sceptical of the report of the Committee of Members. It was vehemently urged that the three members of the Committee were not competent inasmuch as the Official Liquidator, who is a persona designata was not nominated and the other two members were merely Advocates practicing in the High Court, not having any kind of administrative experience. It was urged that the report was signed only by the Advocates and not even signed by the Deputy Official Liquidator. In this regard, attention of this Court was invited to the reply of the Official Liquidator and it was argued that the Official Liquidator has rather placed on the record her reservations in the manner the tenders were placed and the decision was taken to reject the tender application of the present petitioners, which was in gross violation of the principles of natural justice and This is a digitally signed order.

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7. Per contra, Ms. Sangeeta Chandra, learned Standing Counsel appearing for the Official Liquidator has vehemently urged that pursuant to the directions in the order dated 11.07.2023, on the administrative side, not only was the Committee constituted, but the format of the Notice Inviting Tenders besides the requirements as to details concerning the bidders were also clearly spelled out. It was pointed out that the petitioners had earlier filed a writ petition being W.P. (C) 10599/2023 in which the order dated 11.07.2023 formed Annexure-9 and that would be sufficient to assume that they were aware of the order dated 11.07.2023. It was urged that since the order dated 11.07.2023 on the administrative side was not challenged, the present writ petition is not even maintainable and that once the petitioners had participated in the entire process having full knowledge and import of the directions of this Court dated 11.07.2023 on the administrative side, they cannot turn around and dispute the entire process, particularly since they have not been successful in getting their bids accepted.

8. Learned Standing Counsel for the Official Liquidator has referred to Section 448(4) of the Companies Act, 1956 to canvass that the term „Official Liquidator“ is not a persona designata. Lastly, it was urged that the members of the Committee were duly competent and they had considered each and every aspect of the tender applications and have even gone to the extent of assigning reasons based on the information supplied by the bidders. It was urged that This is a digitally signed order.

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out that the reports had been accepted by this Court vide order dated 06.10.2023 in the presence of the Official Liquidator as well as the Deputy Official Liquidator and in fact while only four security agencies were recommended, this Court decided to engage the fifth security agency as well.

ANALYSIS AND DECISION

9. Having heard the learned Senior Counsel appearing for the applicants, learned Standing Counsel appearing for the Official Liquidator and on meticulous examination of the materials on record, at the outset, I find that the present applications are grossly misconceived and misplaced.

MAINTAINABILITY OF THE CHALLENGE

10. First things first, it is clearly brought to the fore that the order dated 11.07.2023, whereby this Court, on the administrative side, constituted a Committee for the selection and empanelment of the security agencies, was in the knowledge of the applicants, as they had filed a Writ Petition bearing W.P. (C) 10599/2023, in which such order formed an annexure. The said writ was filed seeking directions in the nature of mandamus with regard to certain outstanding bills towards security services provided to safeguard assets of certain companies facing liquidation proceedings, which writ came to be disposed of vide order dated 17.08.2023. The said order was not This is a digitally signed order.

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11. In this regard, learned Standing Counsel appearing for the Official Liquidator has relied on a decision in *D. Sarojakumari v. R. Helen Thilakom*², wherein the petitioner/the candidate participated in the selection process but challenged it subsequently when he was not successful, and it was held by the Supreme Court that it was not open to her to turn around and question the selection process or constitution of the Selection Committee only because she was not selected. Reference has also been invited to the decisions in (i) *Anupal Singh v. State of U.P.*³ and; (ii) *Mohd. Mustafa v. Union of India*⁴. The Supreme Court in the case of *Anupal Singh* (supra) referred to a plethora of case law on the subject and reiterated the proposition of law to the effect that once the petitioner had participated in the selection process and was eventually found to be unsuccessful, they cannot thereafter challenge the entire selection process.

12. Avoiding a long academic discussion on the subject, reliance 2 (2017) 9 SCC 478 (2020) 2 SCC 173 This is a digitally signed order.

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23. The relevant portion of the judgment of this Court in Monarch Infrastructure (P) Ltd. v. Ulhasnagar Municipal Corpn. [(2000) 5 SCC 287] , which has been relied upon by the High Court in the impugned judgment reads as under: (SCC pp. 291-92, para 10) "10. There have been several decisions rendered by this Court on the question of tender process, the award of contract and have evolved several principles in regard to the same.

Ultimately what prevails with the courts in these matters is that while public interest is paramount there should be no arbitrariness in the matter of award of contract and all participants in the tender process should be treated alike. We may sum up the legal position thus:

- (i) The Government is free to enter into any contract with citizens but the court may interfere where it acts arbitrarily or contrary to public interest.
- (ii) The Government cannot arbitrarily choose any person it likes for entering into such a relationship or to discriminate between persons similarly situate.
- (iii) It is open to the Government to reject even the highest bid at a tender where such rejection is not arbitrary or unreasonable or such rejection is in public interest for valid and good reasons."

We are of the view that the said rejection of the highest bidder has been made by following the precondition of the acceptance of the tender already given in the said public notice.

(2022) 1 SCC 294 (2009) 7 SCC 462 This is a digitally signed order.

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25. Moreover, the acceptance letter of the appellant to accept the project on the terms offered by the highest bidder to MHADA was sent on 14-6-2007 i.e. much before the filing of PIL No. 72 of 2007 to challenge the public tender. So it can be concluded that failure in the said bidding has raised the question of acceptability of the Swiss Challenge method and not before that when the public notice was actually published.

26. It was also pointed out that the tender notice and bid documents specify the details about the Swiss Challenge method without mentioning the innovativeness of the proposal; in such circumstances, interference by the High Court under the wrong assumption of innovativeness as one

of the preconditions in the proposal of Ravi Development is totally incorrect.

45. It is a well-settled principle that in the matters of government contract, the scope for judicial review is very limited and that the Court cannot substitute its own decision for that of the Government vide *Tata Cellular v. Union of India* [(1994) 6 SCC 651] and *Air India Ltd. v. Cochin International Airport Ltd.* [(2000) 2 SCC 617]

46. Even as early as in *State of M.P. v. Nandlal Jaiswal* [(1986) 4 SCC 566] this Court held that when the State Government is granting licence for putting up a new industry, it is not at all necessary that it should advertise and invite offers for putting up such industry. The State Government is entitled to negotiate with those who have come up with an offer to set up such industry.

48. In *5 M & T Consultants v. S.Y. Nawab* [(2003) 8 SCC 100] it is worthwhile to refer the following conclusion in para 17: (SCC p.

116) "17. ... It is by now well settled that non-

floating of tenders or absence of public auction or invitation alone is no sufficient reason to castigate the move or an action of a public authority as either arbitrary or unreasonable or amounting to mala fide or improper exercise or improper abuse of power by the authority concerned. Courts have always leaned in favour of sufficient latitude being left with the authorities to adopt their own techniques of management of projects with concomitant economic expediencies depending upon the exigencies of a situation guided by appropriate financial policy in the best interests of the authority motivated by This is a digitally signed order.

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(emphasis supplied)

13. In respect of the maintainability of a challenge mounted against the tender process, it would be expedient to consider the decision of the Supreme Court in *Bharat Coking Coal Ltd. v. AMR Dev Prabha*⁶. The relevant extract of the same is reproduced as under:

28. The scope of judicial review in tenders has been explored in-

depth in a catena of cases. It is settled that constitutional courts are concerned only with lawfulness of a decision, and not its soundness. [*Central Coalfields Ltd. v. SLL-SML (Joint Venture Consortium)*, (2016) 8 SCC 622 : (2016) 4 SCC (Civ) 106; *Siemens Aktiengesellschaft & Siemens Ltd. v. DMRC*, (2014) 11 SCC 288] Phrased differently, the courts ought not to sit in appeal over decisions of executive authorities or instrumentalities. Plausible decisions need not be overturned, and latitude ought to be granted to the State in exercise of executive power so that the constitutional separation of powers is not encroached upon. [*Air India Ltd. v. Cochin International Airport Ltd.*,

(2000) 2 SCC 617] However, allegations of illegality, irrationality and procedural impropriety would be enough grounds for courts to assume jurisdiction and remedy such ills. This is especially true given our unique domestic circumstances, which have demonstrated the need for judicial intervention numerous times. Hence, it would only be the decision-making process which would be the subject of judicial enquiry, and not the end result (save as may be necessary to guide determination of the former).

29. This position of law has been succinctly summed up in *Tata Cellular v. Union of India* [*Tata Cellular v. Union of India*, (1994) 6 SCC 651], where it was famously opined that: (SCC pp. 677-78, para 77) "77. ... Therefore, it is not for the court to determine whether a particular policy or particular decision taken in the fulfilment of that policy is fair. It is only concerned with the manner in which those decisions have been taken. The extent of the duty to act fairly will vary from case to case.

(2020) 16 SCC 759 This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 01/03/2024 at 22:27:39. Shortly put, the grounds upon which an administrative action is subject to control by judicial review can be classified as under:

(i) Illegality: This means the decision-maker must understand correctly the law that regulates his decision-making power and must give effect to it.

(ii) Irrationality, namely, *Wednesbury* [*Associated Provincial Picture Houses Ltd. v. Wednesbury Corpn.*, (1948) 1 KB 223 (CA)] unreasonableness.

(iii) Procedural impropriety."

31. In cases where a constitutional right is infringed, writs would ordinarily be the appropriate remedy. In tender matters, such can be either when a party seeks to hold the State to its duty of treating all persons equally or prohibit it from acting arbitrarily; or when executive actions or legislative instruments are challenged for being in contravention to the freedom of carrying on trade and commerce. However, writs are impermissible when the allegation is solely with regard to violation of a contractual right or duty. Hence, the persons seeking writ relief must also actively satisfy the Court that the right it is seeking is one in public law, and not merely contractual. In doing so, a balance is maintained between the need for commercial freedom and the very real possibility of collusion, illegality and squandering of public resources.

32. Such a proposition has been noticed by this Court even earlier in *Jagdish Mandal v. State of Orissa* [*Jagdish Mandal v. State of Orissa*, (2007) 14 SCC 517] in the following words: (SCC p. 531, para 22) "22. Judicial review of administrative action is

intended to prevent arbitrariness, irrationality, unreasonableness, bias and mala fides.

Its purpose is to check whether choice or decision is made "lawfully" and not to check whether choice or decision is "sound". When the power of judicial review is invoked in matters relating to tenders or award of contracts, certain special features should be borne in mind. A contract is a commercial transaction. Evaluating tenders and awarding contracts are essentially commercial functions. Principles of equity and natural justice stay at a distance. If the decision relating to award of contract is bona fide and is in public interest, courts will not, in exercise of power of judicial review, interfere even if a procedural aberration or error in assessment or prejudice to a tenderer, is This is a digitally signed order.

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33. Such conscious restraint is also necessary because judicial intervention by itself has effects of time and money, which if unchecked would have problematic ramifications on the State's ability to enter into contracts and trade with private entities. Further, it is not desirable or practicable for courts to review the thousands of contracts entered into by executive authorities every day. Courts also must be cognizant that often-a-times the private interest of a few can clash with public interest of the masses, and hence a requirement to demonstrate effect on "public interest" has been evolved by this Court. [Jagdish Manda v. State of Orissa, (2007) 14 SCC 517, para 22] (emphasis supplied)

14. Therefore, once the applicants participated in the tender process and submitted to the jurisdiction of the Committee, they are estopped from challenging the tender process and/or the Constitution of the Committee. But, of course there is more to the story. At this juncture, it is pertinent to mention that it was pointed out during the course of arguments by the learned Standing Counsel that even the petitioners/applicants were appointed on the panel of security agencies with the Official Liquidator on 04.04.2019 without calling for any tenders, and no interviews were held. Although that does not create a binding precedent, however, the fact remains that there was no directives vide order dated 11.07.2023 to hold interviews of the bidders before making selection for the empanelment.

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15. Secondly, much mileage is sought to be drawn from the fact that certain observations have been made while considering the applicants without giving them an opportunity of hearing and thereby virtually causing their civil death. It would be expedient to refer to the deliberations of the Committee made in its meeting held on 25.08.2023 and recorded in the Minutes of the Meeting.

16. In short, the deliberations recorded that 11 companies applied or submitted tender applications and so far as the present applicants are concerned, it was recorded as under:

"E. Marksmen Security Forces Private Limited (Serial No.5), Manasvi Security Services (Serial No.9) and SSDN Security Solution Private Limited (Serial No.11).

Marksmen Security Forces Private Limited is a Private Limited Company, incorporated on 10.08.2022. The Applicant has registration such as GST, PAN, EPFO, ESI Corporation & Labour Department, UP, all dated 10.08.2022. That applicant has provided the registration numbers under the Private Security Agencies (Regulation) Act, 2005, however, no proof/document has been provided.

The applicant has also not provided any Income Tax Returns. It has been stated in the application that the applicant is providing security guards to Cement Corporation of India, Chhattisgarh and Central Coalfield Limited, Ranchi, however, no supporting document has been provided.

It is apparent that this security agency has no experience. By going through the documents, it was revealed that M/s.

Marksmen Security Forces Private Limited had stated in the application that Mr. Waseul Hasan and Mr. Adarsh Prajapati are the Directors of the said Company. However, on the MCA website, the name of the Directors of the said Company - M/s. Marksmen Security Forces Private Limited are shown as Ms. Roli Singh and Mr. Amit Kumar Singh.

Upon verifying other documents, Mr. Sanjay Raghuvanshi and Mr. Amit Kumar Singh are also found to be Partners of M/s.

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SSDN Security Solution Private Limited is a Private Limited Company, incorporated on 19.04.2023.

The director are stated to be Mr. Sanjay Raghuvanshi and Mr. Sidharth Raghuvanshi (Mr. Sanjny Raghuvnnshi is also a partner in Manasvi Security Services).

The Applicant has registration such as GST, PAN, TAN, EPF and ESI & Labour Department.

The applicant has provided the registration number under the Private Security Agencies (Regulation) Act, 2005, however, no proof/document has been provided.

It has been stated in the application that the applicant is providing Security guards to CFM, Mumbai, IFCI, New Delhi and Official Liquidator, Delhi.

However, it is not understood as to how the applicant company claims to have been providing security guards to OL, Delhi, when the said company is not on the panel of the Official Liquidator, Delhi.

It is apparent that this security agency has no experience. Manasvi Security Services has been established in UP in the year 2011.

The partners are stated to be Mr. Sanjay Raghuvanshi and Mr. Amit Kumar Singh.

This security agency has been on the panel of the Official Liquidator, Delhi and has been assigned substantial work. The Committee has taken cognizance of the fact that there are complaints against Manasvi Security Services on account of unprofessional behaviour.

It is specifically noted that in the matter of Aravali Infrapower Limited, CP No.698/20 15, the said security agency, had through its sister concern i.e. Native Estate Private Limited, purchased the plant and machinery of the said company at two locations. However, in the garb of removing the plant and machinery, the said entities, unauthorisedly and illegally - removed the sheds · of the company (In Liqn.), which were valued at Rs.8 crores approximately. This is apparent from para l of the order dated 20.04.2022, which is reproduced as under:-

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The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 01/03/2024 at 22:27:40 ". 1. Mr Verma, learned senior counsel appearing for the Native Estate Pvt. Ltd. (hereafter 'NEPL) and Manasavi Security Agency states

at the outset, that NEPL takes full responsibility for removing the sheds and tenders an unqualified apology for removing them. He has also handed over a copy of the letter dated 01.04.2022 sent to the Official Liquidator stating the same. Para 5 of the aforesaid order notes the relationship between Native Estate Private Limited and Manasvi Security Services and reads as under:-

"5. Clearly, NEPL and Manasvi Security Services are required to bear any loss that has been incurred to the Company in liquidation on account of NEPL dismantling and removing the sheds. More particularly, when it is reported that the Directors of NEPL are the spouses of the constituent partners of the firm Manasvi Security Services."

It is also pertinent to point out that one of the above sites was guarded by Manasvi Security Services and the other was guarded by SS4 Safenet Security Services.

It is apparent that Manasvi Security Services and Native Estate Private Limited are related parties. Cognizance is also taken of the fact that in several cases, properties being guarded by Manasvi Security Services are purchased by Native Estate Private Limited. Apart from the above misdemeanours, in a number of companies, complaints have been received against this security agency of deploying lesser number of guards than as contracted for. Complaints have also been received of encroachments on the lands/properties of the companies in liquidation, while the same were being guarded by the applicant.

It appears that Mr. Sanjay Raghuvanshi has colluded with Mr. Amit Kumar Singh and others to rig the entire process of empanelment by filing 3 applications for empanelment under the aegis of different entities as:-

- i) The MCA website discloses Ms. Roli Singh and Mr. Amit Kumar Singh, as directors of Marksmen Security Forces Private Limited.
- ii) Mr. Sanjay Raghuvanshi and Mr. Amit Kumar Singh are partners in Manasvi Security Services, a partnership firm.

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iii) Mr. Sanjay Raghuvanshi and Mr. Siddharth Raghuvanshi are directors of SSON Security Solutions Private Limited. In view of the aforesaid circumstance, it was decided by the Committee that all these 3 Applicants, i.e. M/s. Marksmen Security Forces Private Limited (Serial No. 5), M/s. Manasvi Security Services. (Serial No. 9) and M/s. SSDN Security Solution Private Limited (Serial No. 11) should not be recommended for the panel. Accordingly, the application tiled by these 3 entities are rejected by the Committee." {emphasis supplied}

17. A careful perusal of the aforesaid Minutes would show that the security agencies did not fulfil and satisfy the necessary eligibility criteria as per the NIT dated 20.07.2023. As regards SSDN Security Solution Private Limited., it was found that certain relevant documents have not been submitted and it did not have sufficient experience. Likewise, as regards Marksmen Security Forces Private Limited, it was found that certain documents had not been submitted, and that such security agency had no experience too.

18. Further, upon verification of the documents, it was found that Mr. Sanjay Raghuvanshi and Mr. Amit Kumar Singh were also partners of M/s Manasvi Security, another firm which had applied for empanelment, being one of the applicants before this Court. Indeed, it appears that the observations against M/s Manasavi Security Services were not off the cuff remarks, but that the same were made after taking inputs in this regard from the Deputy Official Liquidator as also after scrutiny of the documents submitted and information available in the public domain. It is manifest that the reasons that prevailed in the mind of the Committee and spelled out in the Minutes tell their own tale. It is a reckless and half-hearted argument that there was any bias in the minds of the members of the Committee as against This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 01/03/2024 at 22:27:40 the applicant-M/s Manasavi Security Services. At the cost of repetition, there was no mandate from this Court to hold interviews of the bidders before making final selection.

19. What evidently stares on the face of the above-noted Minutes of Meeting is the footprints of Mr. Sanjay Raghuvanshi omnipresent in respect of each of the three bidders rejected therein. All relevant documents were required to be submitted by the tender applicants including details of ownership, directorship and titleship as per the form prescribed vide order dated 11.07.2023, and it is but apparent that a consortium bidding was attempted by concealing or misrepresenting certain relevant facts about the ownership/directorship of the bidders. In such a scenario, neither was there any need for holding an independent inquiry nor any imperative to hear the bidders/applicants before taking a final decision. Be that as it may, at the cost of repetition, the reasons that prevailed in rejecting the tender of the applicants cannot be said to be lacking any foundation or arbitrary. It is but manifest that the decisions for selection and rejection of the respective bidders were done in a fair, just and reasonable manner, in larger public interest and after considering all necessary documents submitted with the tender applications as also documents available in the public domain. The applicants miserably fail to demonstrate that the decision making process was arbitrary or contrary to public interest or policy. It is not that the applicants have been blacklisted either and there is no decision so as to bar them for applying in future for such assignments.

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20. Lastly, there is no merit in the plea taken by the learned Senior Counsel for the applicants that the Official Liquidator is a persona designata since Section 448(4) of the Companies Act, 1956 clearly provides that the term „Official Liquidator“ would also include „Additional“ and „Deputy Official Liquidator“⁷. As regards the challenge to the competence of the learned Senior Standing Counsel for the Official Liquidator and the other Advocate in terms of Section 5(a) of the Scheme, the plea is not worth its salt. Evidently, the two advocates constituting the Committee along with the Deputy Official Liquidator have had vast legal experience at the Bar, spanning over almost 30 years. It is our experience that practicing lawyers in their day-to-day discharge of professional duties and working, do get significant exposure to various issues of a legal and administrative nature, more particularly when they deal with various wings of the central/state governments, their agencies or instrumentalities. This Court would avoid going into a long discussion as to what constitutes „administrative skills“ except to indicate from the deliberations and the report of the Committee dated 25.08.2023 that the Committee considered each and every aspect of the eligibility conditions and suitability of each of the applicants/bidders as per the NIT dated 20.07.2023; and the decision-making process cannot be faulted on grounds of „irrationality“, „illegality“ or „procedural impropriety“. In the opinion of the Court, nothing can be more evident of the

448. Appointment of Official Liquidator (4) All references to the "Official Liquidator" in this Act shall be construed as reference to the Official Liquidator specified in sub-section (1), or to the Deputy Official Liquidator or Assistant Official Liquidator referred to in sub-section (3), as the case may be.

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The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 01/03/2024 at 22:27:40 competence and administrative skills of the two advocates in the Committee, who minutely examined all aspects of the matter and acted in the larger public interest. The objection to their competence is unpalatable, to say the least, if not altogether ridiculous.

21. Lastly, there is no substance in the argument that the Official Liquidator has any serious reservations as against the report dated 25.08.2023. The only thing that this Court finds relevant is that the Official Liquidator has merely lamented that she was not taken into consideration before submitting the report to the Court but she has supported the findings in its entirety. Merely because the report was not signed by the Deputy Official Liquidator or that it was not vetted by the Official Liquidator, does not in any manner diminish its legality. Be that as it may, the report cum recommendations dated 25.08.2024 were considered by this Court on the administrative side on 06.10.2023 in the presence of the Official Liquidator as also the Deputy Official Liquidator and there is nothing on the record to raise an inference that there was any kind of reservation or objection on their part.

22. In view of the foregoing discussion, the present applications are bereft of any merits and the same are dismissed accordingly. The interim order dated 17.11.2023, whereby the engagement of the newly empaneled Security Agencies had been put in abeyance, is hereby vacated, the Official

Liquidator is directed to initiate steps for engagement of the newly engaged security agencies that have been selected and empaneled in terms of the order of this Court dated 06.10.2023 and commence assigning security work to such agencies This is a digitally signed order.

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ADMIN REPORT No. 5/2023 & ADMIN REPORT No.19/2023 in VARIOUS COMP. (MISC.)

23. Re-notify on 01.04.2024.

DHARMESH SHARMA, J.

FEBRUARY 27, 2024/ck This is a digitally signed order.

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