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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% Judgment Reserved on*: 18.02.2026*
Judgment delivered on*: 30.03.2026*
Judgment uploaded on*: 30.03.2026*

\+ **W.P.(C) 5/2026 & CM APPL. 13/2026**

INTERNATIONAL VISA SERVICES PVT LTD FORMERLY KNOWN AS IVS LANKA PVT LTD .....Petitioner

versus

UNION OF INDIA .....Respondent

Advocates who appeared in this case

For the Petitioner : Mr. Samar Bansal, Mr. Siddharth Nath, Mr. Asjad Hussain and Mr. Anunay Chowdhary, Advs.

For the Respondent : Mr. Shashank Dixit, CGSC, Mr. Arnav Mittal, GP and Mr. Kunal Raj, Adv.

CORAM:
HON'BLE MR. JUSTICE V. KAMESWAR RAO
HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

JUDGMENT

MANMEET PRITAM SINGH ARORA, J.

1. The present writ petition under Article 226 of the Constitution of India challenges the disqualification of the Petitioner, from participating in the tender process for outsourcing consular services [‘CPV services’] in Sri Lanka, communicated through an e-mail dated 29.12.2025, with reference to

the Mandatory Eligibility Criteria ['MEC'] of the Request for Proposal ['RFP'] dated 27.11.2025, whereby the Petitioner has been declared ineligible on the ground that it does not satisfy the MEC prescribed in Chapter V of the RFP dated 27.11.2025.

2. The facts relevant for deciding the controversy as stated in the petition are set out hereunder: -

2.1 The Petitioner is a company incorporated in Sri Lanka, which for more than 13 years has been operating visa, passport and consular outsourcing centers on behalf of Indian Missions in Sri Lanka.

2.2 Pursuant to award of a tender for outsourcing CPV services, an Agreement dated 03.06.2013 was executed between a distinct entity called IVS Global Services Pvt. Ltd. ['IVS Global'] and the Respondent for providing visa, passport and consular services at designated centers in Sri Lanka ['2013 Agreement'].

It is pertinent to note that IVS Global is not a party to these proceedings.

2.3 It is stated that to comply with the tender requirements and applicable local laws for discharge of services under the 2013 Agreement, IVS Global took steps to incorporate the Petitioner herein in Sri Lanka, which was then known as IVS Lanka Pvt. Ltd. ['IVS Lanka'/'Petitioner'].

Pursuant to the incorporation of IVS Lanka/Petitioner, an MOU dated 04.07.2013 ['MOU'] was executed between IVS Global and IVS Lanka/Petitioner for rendering CPV services in Sri Lanka.

IVS Global submitted a copy of the aforesaid MOU to the Respondent under cover of the letter dated 12.08.2013, with the submission that IVS Lanka has been incorporated for rendering the CPV services to the

High Commission.

2.4 It is stated that the Respondent formally recognised IVS Lanka/Petitioner as the authorised service provider. It is stated that a press release was issued on 29.08.2013 by the Consulate General of India, Jaffna, informing the public that IVS Lanka/Petitioner would be accepting visa, passport and consular applications.

It is stated that IVS Lanka/Petitioner obtained necessary statutory registrations in Sri Lanka, including VAT registration and Employees' Provident Fund registration, demonstrating compliance with local laws.

2.5 It is stated that the original 2013 Agreement between IVS Global and the Respondent was periodically extended through extension/addendum agreements dated 23.10.2017, 18.11.2022 and 06.05.2025, and the last extension continued the contract till 31.10.2025. The extensions, though in the name of IV Global, were executed by IVS Lanka/Petitioner and in 2022, 2024 and 2025 bank guarantees required to be furnished to the Respondent, were furnished by IVS Lanka/Petitioner.

2.6 It is stated that, throughout the contractual period of 2013 till 31.10.2025, the Respondent regulated and approved the operations undertaken by IVS Lanka/Petitioner. The Petitioner relies upon the acts of the Respondent in granting approvals address to IVS Lanka/Petitioner for levy of SMS charges, issuance of count confirmations certifying the number of applications processed by the Petitioner, fee confirmations confirming the fees collected by the Petitioner and appreciation letters issued by the Respondent to the Petitioner. It is stated that all these actions of the Respondent and the documents issued evidence that it recognized Petitioner's operational role in performance of the 2013 Agreement.

2.7 It is stated that the Respondent issued an RFP dated 03.02.2025 [‘first RFP’] for outsourcing consular services at Sri Lanka. The Petitioner participated in the said tender process and was found technically eligible, secured a technical score of 75.5, though another bidder[1] was declared L1.

Aggrieved by the proposed award in favor of the L1, the Petitioner filed W.P.(C) 4674/2025, wherein this Court directed that the tender should not be awarded, without verification of antecedents of the bidders.

2.8 Separately, the Respondent issued a Penalty Order dated 14.11.2025 under the 2013 Agreement on the allegations that IVS Global and IVS Sri Lanka had charged exorbitant and inadmissible service fee from the customers. The said penalty order was addressed to both IVS Global and IVS Lanka. The Respondent also sought to invoke the bank guarantee furnished by IVS Lanka/Petitioner.

The said penalty order has been challenged by both IVS Global and IVS Lanka in W.P.(C) 18164/2025. The operation of the penalty order has been kept in abeyance by the Court vide order dated 11.12.2025 passed in W.P.(C) 18164/2025.

2.9 The Respondent thereafter issued a fresh RFP dated 27.11.2025 [‘second RFP’] for CPV services in Sri Lanka containing eligibility criteria identical to the first RFP.

This is the RFP which is the subject matter of the present proceedings.

2.10 IVS Global vide e-mail dated 10.12.2025 addressed to the Respondent, clarified that it would not participate in the second RFP.

IVS Lanka/Petitioner submitted its bid for participating in the second RFP on 26.12.2025. In this bid, it relied upon the experience of rendering

[1] Alankit Assignments Ltd.

CPV services under the 2013 Agreement.

2.11 By e-mail dated 27.12.2025, the Respondent stated that the experience and revenue accrued under the 2013 Agreement was attributable to IVS Global and could not be attributed to the IVS Lanka/Petitioner. It was stated that the Petitioner therefore does not meet the criteria of Chapter V, Article 1(i). The Petitioner was granted time until 29.12.2025 to submit its clarification to the aforesaid e-mail.

2.12 The Petitioner submitted a response dated 28.12.2025 relying upon the documentary confirmations issued by the Respondent for the services rendered under the 2013 Agreement and requesting an opportunity of hearing and technical presentation.

The Petitioner also relied upon the grant of the contract for CPV services to SGIVS Global LLC by Embassy of India at Abu Dhabi, UAE, to seek parity. It was stated that in identical facts IVS Global had been awarded the contract for UAE in 2013, which was subsequently assigned to the local entity namely IVS Global LLC, which was renamed as SGIVS Global LLC.

2.13 It is stated that the Respondent vide e-mail dated 29.12.2025[2] granted an opportunity to the Petitioner for clarification or appearance. The Petitioner issued its response on 29.12.2025[3] and sought 10 days' time to present its defence. However, by another e-mail dated 29.12.2025[4] Respondent rejected the Petitioner's explanation and disqualified it from the tender process holding that IVS Lanka/Petitioner fails to meet the MEC mentioned in Chapter V of the RFP. This e-mail dated 29.12.2025 has been impugned in these proceedings.

[2] Issued at 09:01 A.M.
[3] Issued at 14:42
[4] Issued at 18:42 P.M.

Submissions by the Petitioner

3. Learned counsel for the Petitioner submitted that the Respondent has wrongly interpreted the MEC of the second RFP. The Petitioner satisfies the requirements relating to experience, operation of centers and financial credentials, supported by documentary evidence.

3.1 He submitted that the Respondent has consistently recognised the Petitioner as the operational entity, including through extension agreements, approvals, public communications, and acceptance and invocation of bank guarantees.

3.2 He submitted that IVS Global has expressly withdrawn from participation in the second RFP; therefore, there is no possibility of two entities claiming the same experience, thus, rendering the Respondent's objection untenable.

3.3 He submitted that the Petitioner has produced a Chartered Accountant's certificate certifying turnover, and the Respondent cannot arbitrarily reject financial credentials.

3.4 He submitted that the sequence of events; including the earlier writ petition, penalty order, invocation of bank guarantee and sudden eligibility objections; demonstrates malice and a retaliatory attempt to exclude the Petitioner from the tender process.

3.5 He further urged that in the first RFP dated 03.02.2025, containing identical eligibility criteria, the Respondent had declared the Petitioner technically qualified, thereby acknowledging its experience. The Petitioner also relies upon the counter affidavit filed by the Respondent in **W.P. (C) 4674/2025** titled as **M/s I.V.S. Lanka Private Limited v. Union of India & Anr.**, wherein Respondent unequivocally admitted that Petitioner herein was

technically qualified bidder. The subsequent disqualification in the second RFP is therefore alleged to be arbitrary and inconsistent.

3.6 He submitted that the Respondent has selectively applied the 'main contractual party' rationale to exclude the Petitioner, while accepting similar operational structures in other jurisdictions (e.g., UAE), thereby violating the principle of equality and non-arbitrariness.

Submissions by the Respondent

4. Learned counsel for the Respondent submitted that the IVS Lanka/Petitioner was not an independent entity but functioned merely as an extended operational arm of IVS Global, as evident from the MOU dated 04.07.2013. He submitted that the MOU expressly provides that IVS Lanka would carry out day-to-day operations under the supervision, control and guidance of IVS Global.

4.1 He submitted that the Clauses of the MOU show that financial, banking, audit and strategic decisions were controlled by IVS Global, while IVS Lanka was permitted only to maintain a local bank account for operational purposes under IVS Global's oversight.

4.2 He submitted that the MOU also imposed exclusivity for five years, preventing IVS Lanka from independently providing CPV services to any diplomatic mission without the written consent of IVS Global, which further depicts its subordinate role.

4.3 He submitted that since contractual obligations, financial risk and responsibility rested with IVS Global, the experience under the 2013 Agreement accrued solely to IVS Global, and not to IVS Lanka.

4.4 Relying on **AG Construction v. Food Corporation of India**[5], he

[5] Judgment dated 10.02.2021 in CWP No. 20130 of 2020; (NOC) 507 (P.&H.)

submitted that a bidder cannot rely on the experience of a third party or parent entity once it is a separate legal entity.

4.5 He submitted that the contract was executed exclusively between the Union of India/Respondent and IVS Global, and IVS Lanka/Petitioner was neither the contracting party nor independently recognised by the employer for contractual purposes. He submitted that consequently, in the absence of three years' independent experience in its own name, IVS Lanka/Petitioner failed to meet the MEC and was rightly disqualified.

4.6 He stated that the MEC in public tenders must be strictly construed and cannot be diluted by liberal interpretation. Reliance is placed on **Agmatel India Pvt. Ltd. v. Resoursys Telecom**[6], where the Supreme Court held that tender conditions must be applied exactly as framed.

4.7 The Respondent further relied on **Tata Cellular v. Union of India**[7], **Jagdish Mandal v. State of Orissa**[8], **Bharat Coking Coal Ltd. v. AMR Dev Prabha**[9], and **Tata Motors Ltd. v. Brihan Mumbai Electric Supply Undertaking**[10], which hold that judicial review in tender matters is limited to examining the decision-making process and courts should exercise restraint.

4.8 He also relied on **Rohde & Schwarz GmbH v. Airport Authority of India**[11], wherein it was held that the tendering authority is not required to undertake detailed investigations into bidders' claims beyond the documents submitted.

4.9 He stated that since the tender requires three years' experience of the

[6] (2022) 5 SCC 362
[7] (1994) 6 SCC 651
[8] (2007) 14 SCC 517
[9] (2020) 16 SCC 759
[10] 2023 SCC OnLine SC 671
[11] 2013 SCC OnLine Del 4415

bidding entity itself, and the Petitioner seeks to rely on the experience of IVS Global, a separate legal entity, permitting such reliance would amount to rewriting the tender conditions.

4.10 He submitted that the Petitioner's reliance on the case of SGIVS Global LLC (Abu Dhabi, UAE) is misplaced. He clarified that each RFP has its own eligibility conditions, and the circumstances of the Abu Dhabi tender have no relevance to the present RFP. He stated that in the UAE case, there was merely a formal name change of the same legal entity, and SGIVS Global LLC did not rely on the experience of IVS Global Services Pvt. Ltd, and in contrast, IVS Global Services Pvt. Ltd. continues to exist as a separate entity, while the Petitioner seeks to appropriate its experience without any assignment or transfer, making the situations factually and legally distinguishable.

4.11 He placed reliance on **Jagdish Mandal v. State of Orissa** (supra), where the Supreme Court held that failure to grant a hearing before rejecting a bid does not automatically render the decision illegal or arbitrary, particularly where the authority is merely treating the bid as defective.

4.12 He submitted that in the present case, the Respondent did not blacklist or penalise the Petitioner but merely disqualified the bid for non-fulfilment of the MEC. He stated that the Petitioner was also given an opportunity to explain through an e-mail dated 27.12.2025, and therefore, the request for a post-decisional hearing was discretionary and not mandatory.

Findings and Analysis

5. We heard the learned counsel for the parties and perused the record.

6. The controversy in the present petition centres around Chapter V, Clause 1(i) of the second RFP, which prescribed the MEC to be satisfied by the bidder and reads as under:

> "**The bidder** must meet the following mandatory conditions: (i) The Bidding Company must have sound financial credentials of their own without the involvement or help from a third party in the form of financial resources such as subsidies and must also have at least 3 (three) years' *experience* during the last five-year period(Jan- 2020-Dec 2024),in operating a Centre for CPV services on behalf of a Diplomatic Mission of the Government of India or any other foreign Government dealing with at least an average 100 applications per working day. Verifiable details of the experience of operating such centers must be provided"
>
> [Emphasis supplied]

The dispute in this writ petition pertains to the satisfaction of the *experience* criteria of this clause.

7. The issue that arises for consideration before this Court is whether, in law, the IVS Lanka/Petitioner, can validly rely upon and treat as its own the experience of rendering CPV services in Sri Lanka under the 2013 Agreement executed between the Respondent and IVS Global, on the premise that it functioned as an extended arm of IVS Global, for the purposes of satisfying the MEC relating to experience as prescribed under Chapter V, Clause 1(i) of the second RFP. It further falls for consideration whether the decision of the Respondent in holding that the Petitioner is not entitled to claim such experience as its own is arbitrary, irrational, mala fide, or illegal so as to warrant interference by this Court in exercise of its jurisdiction under Article 226.

8. It is the stand of the Petitioner that although the 2013 Agreement was executed between the Respondent and IVS Global, the actual on-ground execution of CPV services was carried out by IVS Lanka/Petitioner to the knowledge of the Respondent and with its approval. In support of this submission, reliance is placed by the Petitioner on following documents in its written submissions: -

> "4.1 ***IVS Global was the Contractor but the Petitioner was admittedly the service provider for CPV Services under agreement dated 03.06.2013. Following documents are relied upon in this regard:***
>
> a. MoU dated 04.07.2013 between IVS Global & the Petitioner along with communication dated 12.08.2013 apprising the Respondent of the same [Ann P-3 (Colly.) @p. 65 / PDF 70, WP]
> **Note**: The said MOU, of which the Respondent admittedly had notice as it is not disputed in the Counter, makes it clear that Petitioner would earn and retain any experience earned **[Cl. 8, p. 68, WP]**.
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> b. Press Release dated 29.08.2013 **[Ann P-4 @ p. 71/PDF 76, WP]**
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> c. Count Confirmations **[Ann P-7 (Colly.) @ p. 75/PDF 80, WP]**
>
> d. Fee confirmations **[Ann P-8 (Colly.) @ p. 78/PDF 83, WP]**
>
> e. Various appreciation letters **[Ann P-9 (Colly.) @ p. 81, PDF 86]**"

8.1 It is contended that these documents unequivocally demonstrate that IVS Lanka/Petitioner was the entity actually performing the CPV services in Sri Lanka and had processed a substantial volume of applications over a period extending from 2013 to 2025. And thus, the Petitioner has the requisite *experience* of operating a centre for CPV services. The Petitioner submits that the condition of *experience* in MEC Chapter V Clause 1(i) ought to be interpreted by the Respondent based on actual performance,

rather than only on a strict reading of the contract.

9. Conversely, the Respondent submits that IVS Lanka/Petitioner cannot claim the benefit of *experience* under the 2013 Agreement, as IVS Lanka/Petitioner was not the contracting party and functioned merely as an extended operational arm of IVS Global.

9.1 Reliance is placed by the Respondent on the MOU executed between IVS Global and IVS Lanka/Petitioner, particularly Clause 3.2, which stipulates that the IVS Lanka/Petitioner shall operate under the supervision, control and guidance of IVS Global. The Clause reads as under: -

> "3.2 IVS Lanka shall act as the extended operational arm of IVS Global and shall carry out day-to-day operations under the supervision, control, and guidance of IVS Global."

9.2 Further reliance is placed on Clauses 5 and 6 of the MOU to demonstrate that financial, strategic and operational control vested entirely with IVS Global. The Clauses read as under: -

> "**5. Banking and Financial Operations**
> 5.1 IVS Lanka shall open and maintain a local bank account in Sri Lanka exclusively for handling local operational transactions related to the CPV services.
>
> 5.2 Financial operations shall be conducted transparently and in accordance with applicable laws and mutually agreed financial controls.
>
> 5.3 IVS Global shall have oversight rights over financial reporting related to services rendered under this Agreement.
>
> 5.4 IVS Global shall have the right to:
> • Review financial records
> • Conduct audits
> • Seek compliance certifications
>
> **6. Exclusivity and Relationship Period**
> 6.1 IVS Lanka shall work exclusively as an arm of IVS Global for a period of Five (5) years from the effective date of this MOU.

> 6.2 During this period, IVS Lanka shall not independently provide CPV services to HCI Colombo or any similar mission or to any diplomatic mission without the written consent of IVS Global."

9.3 It is contended that the obligations, risks and liabilities under the 2013 Agreement were to be borne by IVS Global, and therefore, any *experience* arising therefrom accrues solely to IVS Global. The Respondent emphasises that the 2013 Agreement was executed exclusively with IVS Global, there has been no assignment or novation of the said Agreement in favour of the Petitioner, and the *experience* certificate for the 2013 Agreement has been issued by the Respondent only in favour of IVS Global.

9.4 It is stated that the appreciation letters issued by the Respondent in favour of the IVS Lanka/Petitioner cannot be a substitute for the *experience* certificate which has been issued exclusively to IVS Global. It is stated that in the RFPs issued by Union of India for other embassies abroad, IVS Global has applied and in its bid claimed the experience of the 2013 Agreement for Sri Lanka.

9.5 It is contended that the eligibility criteria has to be strictly construed and permitting IVS Lanka/Petitioner to rely on the *experience* of IVS Global, a separate legal entity, would amount to diluting the tender conditions.

10. The law with regard to the scope of judicial review in matters of tenders has been well settled by the Supreme Court in a multitude of judgments. In **Tata Cellular v. Union of India** (supra), the Supreme Court weighed the need for administrative discretion and restraint on judicial intervention, and observed as under: -

> "94. (1) The modern trend points to judicial restraint in

administrative action.
(2) The court does not sit as a court of appeal but merely reviews the manner in which the decision was made.
(3) The court does not have the expertise to correct the administrative decision. If a review of the administrative decision is permitted it will be substituting its own decision, without the necessary expertise, which itself may be fallible.
(4) The terms of the invitation to tender cannot be open to judicial scrutiny because the invitation to tender is in the realm of contract.
(5) The Government must have freedom of contract. In other words, a fair play in the joints is a necessary concomitant for an administrative body functioning in an administrative sphere or quasi-administrative sphere. However, the decision must not only be tested by the application of Wednesbury principle of reasonableness (including its other facts pointed out above) but must be free from arbitrariness not affected by bias or actuated by mala fides.
(6) Quashing decisions may impose heavy administrative burden on the administration and lead to increased and unbudgeted expenditure."

11. Following this decision, the Supreme Court in **Jagdish Mandal** (supra) further sharpened the parameters of scope of judicial interference in tender matters, held as under: -

> "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 bonafide 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 made out. The power of judicial review will not be permitted to be invoked to protect private interest at the cost of public interest or to decide contractual disputes. The tenderer or contractor with a grievance can always seek damages in a civil court. Attempts by unsuccessful tenderers with imaginary grievances,

wounded pride and business rivalry, to make mountains out of molehills of some technical/procedural violation or some prejudice to self, and persuade courts to interfere by exercising power of judicial review, should be resisted. Such interferences, either interim or final, may hold up public works for years, or delay relief and succour to thousands and millions and may increase the project cost manifold. Therefore, a court before interfering in tender or contractual matters in exercise of power of judicial review should pose to itself the following questions:

(i) Whether the process adopted or decision made by the authority is mala fide or intended to favour someone;

OR

Whether the process adopted or decision made is so arbitrary and irrational that the Court can say: "the decision is such that no responsible authority acting reasonably and in accordance with relevant law could have reached.";

(ii) Whether public interest is affected.

If the answers are in the negative, there should be no interference under Article 226. Cases involving blacklisting or imposition of penal consequences on a tenderer/contractor or distribution of State largesse (allotment of sites/shops, grant of licenses, dealerships and franchises) stand on a different footing as they may require a higher degree of fairness in action."

[Emphasis Supplied]

12. Recently, in the judgment of **TATA Motors Limited v. Brihan Mumbai Electric Supply and Transport Undertaking (BEST) & Ors.**[12], the Supreme Court while referring to the aforesaid judgments once again cautioned the the Constitutional Courts to exercise restraint while exercising the power of judicial review in tender matters and held as under: -

"**50.** This Court being the guardian of fundamental rights is duty-bound to interfere when there is arbitrariness, irrationality, mala fides and bias. However, this Court has cautioned time and again that

[12] (2023) 19 SCC 1.

courts should exercise a lot of restraint while exercising their powers of judicial review in contractual or commercial matters. This Court is normally loathe to interfere in contractual matters unless a clear-cut case of arbitrariness or mala fides or bias or irrationality is made out. One must remember that today many public sector undertakings compete with the private industry. The contracts entered into between private parties are not subject to scrutiny under writ jurisdiction. No doubt, the bodies which are State within the meaning of Article 12 of the Constitution are bound to act fairly and are amenable to the writ jurisdiction of superior courts but this discretionary power must be exercised with a great deal of restraint and caution. The courts must realise their limitations and the havoc which needless interference in commercial matters can cause. In contracts involving technical issues the courts should be even more reluctant because most of us in Judges' robes do not have the necessary expertise to adjudicate upon technical issues beyond our domain. The courts should not use a magnifying glass while scanning the tenders and make every small mistake appear like a big blunder. In fact, the courts must give "fair play in the joints" to the government and public sector undertakings in matters of contract. Courts must also not interfere where such interference will cause unnecessary loss to the public exchequer. (See *Silppi Constructions Contractors* v. *Union of India* [*Silppi Constructions Contractors* v. *Union of India*, (2020) 16 SCC 489].)"

[Emphasis Supplied]

13. The Supreme Court in **N.G. Projects Limited v. Vinod Kumar Jain & Ors.**[13]**,** has further restricted the scope of judicial interference in tender matters and held that judicial review is limited only to checking fairness of the decision-making process, *not* the merits, and, held that *even in cases of arbitrariness or mala fides*, Courts should avoid stopping the tender and instead leave the aggrieved party to seek damages, since interference harms public interest and increases costs. Relevant part of the judgment reads as under: -

[13] (2022) 6 SCC 127

> 23. In view of the above judgments of this Court, the writ court should refrain itself from imposing its decision over the decision of the employer as to whether or not to accept the bid of a tenderer. The Court does not have the expertise to examine the terms and conditions of the present day economic activities of the State and this limitation should be kept in view. Courts should be even more reluctant in interfering with contracts involving technical issues as there is a requirement of the necessary expertise to adjudicate upon such issues. The approach of the Court should be not to find fault with magnifying glass in its hands, rather the Court should examine as to whether the decision-making process is after complying with the procedure contemplated by the tender conditions. If the Court finds that there is total arbitrariness or that the tender has been granted in a mala fide manner, still the Court should refrain from interfering in the grant of tender but instead relegate the parties to seek damages for the wrongful exclusion rather than to injunct the execution of the contract. The injunction or interference in the tender leads to additional costs on the State and is also against public interest. Therefore, the State and its citizens suffer twice, firstly by paying escalation costs and secondly, by being deprived of the infrastructure for which the present day Governments are expected to work.
>
> [Emphasis Supplied]

14. Keeping in view the aforesaid parameters of law for judicial review, we shall now proceed to decide the factual issue of the present petition.

I. 2013 Agreement

15. It is an admitted position that the 2013 Agreement, as well as its subsequent extensions, were executed exclusively between the Respondent and IVS Global. The last extension was executed on 06.05.2025 which expired on 31.10.2025.

The IVS Lanka/Petitioner has relied upon the fact that extensions dated 23.10.2017, 18.11.2022 and 06.05.2025 was executed by its officer on behalf of IVS Global. In the considered opinion of this Court, the execution of the extensions dated 23.10.2017, 18.11.2022 and 06.05.2025 by the

officer of IVS Lanka/Petitioner does not make it a party to the contract, as IVS Lanka/Petitioner itself understood that it was signing for and on behalf of IVS Global. This fact is evident from the averments made by IVS Lanka/Petitioner in CM No. 53353/2025 filed in W.P.(C) 4674/2025 seeking further extension of the 2013 Agreement in favour of IVS Global.

Thus, indisputably the privity of contract under the 2013 Agreement remained only between Petitioner and IVS Global. This fact is also in conformity with the stand taken by IVS Global in W.P.(C) 18164/2025 filed before the coordinate Bench of this Court, as recorded in order dated 11.12.2025.

16. The 2013 Agreement, at Clause 9, stipulated that IVS Global cannot assign its obligations under the Agreement without the prior written approval of the Respondent. It is a matter of record that there has been no assignment of the 2013 Agreement by IVS Global in favour of IVS Lanka/Petitioner. As noted above, the last extension was executed with IVS Global on 06.05.2025 and expired on 31.10.2025.

17. Thus, in law the 2013 Agreement and its extensions remained exclusively between the Respondent and IVS Global, and IVS Lanka/Petitioner is not a party thereto.

II. <u>MOU 04.07.2013</u>

18. The MOU dated 04.07.2013 clearly delineates the relationship between IVS Global and the IVS Lanka/Petitioner. Clauses thereof establish that the Petitioner functioned under the supervision and control of IVS Global; strategic, financial and operational decisions were taken by IVS Global; and client ownership and contractual rights of the 2013 Agreement remained vested with IVS Global. Clauses 3.2, 5 and 6 relied upon by the

Respondent are relevant and show that the services were being provided by IVS Lanka/Petitioner under the direct control and supervision of IVS Global.

19. In view of Clauses 3.2, 5 and 6 of the MOU, the role of IVS Lanka/Petitioner is more appropriately characterised as that of an executing or facilitating entity acting under the supervision and control of the principal contracting party i.e., IVS Global, rather than an independent contracting party vis-à-vis the Respondent.

20. In particular, Clause 3.4 of the MOU stipulates that IVS Global would retain final operational control, client relationship ownership, and authority over critical aspects of the service delivery framework. The Clause reads as under: -

> "3.4 IVS Global shall retain and overlook:
> • Final operational control
> • Client relationship ownership
> • Authority over SOPs, IT systems, branding, and reporting procedures."
>
> [Emphasis supplied]

21. Clause 3.4 clearly records that the client relationship ownership of the 2013 Agreement remained with IVS Global. In other words, the IVS Lanka/Petitioner is barred from claiming or representing that Respondent as its client. As per record, IVS Global is admittedly claiming the experience of the CPV services rendered at Sri Lanka in its bid documents filed for other missions and embassies all over the world and IVS Lanka/Petitioner is not objecting to the said claim of IVS Global. This confirms that IVS Lanka/Petitioner admits that the client ownership of the 2013 Agreement vests with IVS Global.

22. We are of the considered opinion that IVS Lanka/Petitioner's

assertion that it is entitled to claim experience of the CPV services rendered under the 2013 Agreement is expressly barred as per Clause 3.4 and Clause 6.2 of the MOU.

III. No parity with UAE entity/SGIVS Global LLC

23. IVS Lanka/Petitioner has placed reliance on the allotment of the contract in favour of M/s SGIVS Global LLC in the UAE and seeks parity; however, upon perusal of the order dated 02.05.2025 issued by the High Commission of India at Abu Dhabi, this Court finds that the factual position therein is materially distinct. The order sets out the following facts: -

> "3. The Embassy's response, with respect to the matters pertaining to the current contract for outsourcing of the attestation services at the Embassy of India, Abu Dhabi and the Consulate General of India, Dubai, is as follows:
>
> a) The Embassy of India, Abu Dhabi signed an agreement for outsourcing of attestation services with M/s. IVS Global Private Services Ltd, a registered company in India, on 19" November 2012. The agreement was valid for a period of three years from 2*d January 2013 till 15 January 2016 which has been extended subsequently. In order to execute the agreement, a local company named M/s. IVS Global LLC having Licence No. CN-1485100 was registered on 21/02/2013.
>
> b) It was brought to the attention of the Embassy that M/s. IVS Global Private Services Ltd split its business operations and its GCC business were transferred to the local company M/s. IVS Global LLC. The change in shareholding of the two companies was also highlighted. On 18 December 2019, at the request of M/s. IVS Global LLC and no-objection from M/s. IVS Global Private Services Ltd, the agreement for the extension period from 1 January 2020 to 31 December 2021, was signed in the name of M/s. IVS Global LLC, instead of M/s. IVS Global Private Services Ltd. The subsequent agreements for the extension periods in 2022, 2023 and 2024 were signed between Embassy and M/s. IVS Global LLC.
>
> c) On August 27, 2024, the company had conveyed its request to

> amend its trade name in UAE from M/s. IVS Global LLC to M/s. SGIVS Global LLC. The request was approved and the agreement for the extension period January 1, 2025 to June 30, 2025 was signed in the name of M/s. SGIVS Global LLC."

The aforesaid communication demonstrates that the original agreement dated 19.11.2012 was initially executed with M/s IVS Global Private Services Ltd., and thereafter, pursuant to a conscious and documented restructuring of business operations, the GCC segment was transferred by M/s IVS Global to the locally incorporated entity, M/s IVS Global LLC. Essentially, this transition was not merely operational but was formally recognised by the contracting authority i.e., Embassy of India at Abu Dhabi, UAE, which, upon request and with the express no-objection of the original contracting entity, executed subsequent extension agreements directly in favour of M/s IVS Global LLC. This was followed by a further approved change in trade name to M/s SGIVS Global LLC, in whose favour later extensions were granted. The aforesaid facts clearly evidence a case of written assignment/novation of contractual rights by the competent authority in favour of the local entity, thereby conferring upon M/s SGIVS Global LLC contractual status in its own right.

24. Such a factual and legal framework is entirely absent in the present case, where no assignment or novation of the 2013 Agreement has been made in favour of IVS Lanka/Petitioner. As noted above, in the case of Sri Lanka, IVS Global is asserting client ownership rights for the 2013 Agreement.

IV. <u>Tendering authority is the best person to assess the experience claimed by the bidder</u>

25. The Petitioner/IVS Lanka has relied upon the judgment of the

Supreme Court in **New Horizons Limited v. Union of India & Ors.**[14] and in our considered opinion, paragraph 23 of the said judgment sheds light on the issue arising for consideration in the present proceedings. This judgment does recognise that criteria of experience and eligibility of the bidder may, in certain circumstances, be evaluated by the tendering authority from a commercial and pragmatic perspective, even though experience is not in the name of the bidder. Paragraph 23 reads as under: -

> "23. Even if it be assumed that the requirement regarding experience as set out in the advertisement dated 22-4-1993 inviting tenders is a condition about eligibility for consideration of the tender, though we find no basis for the same, the said requirement regarding experience cannot be construed to mean that the said experience should be of the tenderer in his name only. It is possible to visualise a situation where a person having past experience has entered into a partnership and the tender has been submitted in the name of the partnership firm which may not have any past experience in its own name. That does not mean that the earlier experience of one of the partners of the firm cannot be taken into consideration. Similarly, a company incorporated under the Companies Act having past experience may undergo reorganisation as a result of merger or amalgamation with another company which may have no such past experience and the tender is submitted in the name of the reorganised company. It could not be the purport of the requirement about experience that the experience of the company which has merged into the reorganised company cannot be taken into consideration because the tender has not been submitted in its name and has been submitted in the name of the reorganised company which does not have experience in its name. Conversely there may be a split in a company and persons looking after a particular field of the business of the company form a new company after leaving it. The new company, though having persons with experience in the field, has no experience in its name while the original company having experience in its name lacks persons with experience. The requirement regarding experience does not mean that the offer of the original company must be considered because it has experience in its name though it does not have experienced persons with it and ignore the offer of the new company because it does not

[14] 1995 1 SCC 478

have experience in its name though it has persons having experience in the field. While considering the requirement regarding experience it has to be borne in mind that the said requirement is contained in a document inviting offers for a commercial transaction. **The terms and conditions of such a document have to be construed from the standpoint of a prudent businessman. When a businessman enters into a contract whereunder some work is to be performed he seeks to assure himself about the credentials of the person who is to be entrusted with the performance of the work. Such credentials are to be examined from a commercial point of view which means that if the contract is to be entered with a company he will look into the background of the company and the persons who are in control of the same and their capacity to execute the work. He would go not by the name of the company but by the persons behind the company.** While keeping in view the past experience he would also take note of the present state of affairs and the equipment and resources at the disposal of the company. The same has to be the approach of the authorities while considering a tender received in response to the advertisement issued on 22-4-1993. This would require that first the terms of the offer must be examined and if they are found satisfactory the next step would be to consider the credentials of the tenderer and his ability to perform the work to be entrusted. For judging the credentials past experience will have to be considered along with the present state of equipment and resources available with the tenderer. Past experience may not be of much help if the machinery and equipment is outdated. Conversely lack of experience may be made good by improved technology and better equipment. The advertisement dated 22-4-1993 when read with the notice for inviting tenders dated 26-4-1993 does not preclude adoption of this course of action. If the Tender Evaluation Committee had adopted this approach and had examined the tender of NHL in this perspective it would have found that NHL, being a joint venture, has access to the benefit of the resources and strength of its parent/owning companies as well as to the experience in database management, sales and publishing of its parent group companies because after reorganisation of the Company in 1992 60% of the share capital of NHL is owned by Indian group of companies namely, TPI, LMI, WML, etc. and Mr Aroon Purie and 40% of the share capital is owned by IIPL a wholly-owned subsidiary of Singapore Telecom which was established in 1967 and is having long experience in publishing the Singapore telephone directory with yellow pages and other directories. Moreover in the tender it was specifically stated that IIPL will be

> providing its unique integrated directory management system along with the expertise of its managers and that the managers will be actively involved in the project both out of Singapore and resident in India."
>
> [Emphasis Supplied]

26. In this judgment the Supreme Court highlighted that when the tendering authority evaluates the experience of the bidder it not only looks at the name of the company but also looks into the background of the company and the people who are in control of the same and their capacity to execute the work.

27. This Court notes that the Respondent has had direct dealings with the IVS Global and IVS Lanka/Petitioner for the entire duration 2013-2025, and has formed an opinion on the basis of its actual experience that, in the absence of the supervisory control of IVS Global, IVS Lanka/Petitioner may not possess the independent capacity to render the services in question. Such an assessment, being essentially factual and commercial in nature, falls within the domain of the tendering authority and in our considered opinion ought not to be interfered in judicial review. This Court has no material before it to form a contrary opinion and substitute it for the opinion expressed, by the Respondent, on the basis of its actual experience.

28. The contention of IVS Lanka/Petitioner that the Respondent, through various documents such as count confirmations, press releases, fee approvals and appreciation letters, recognised the Petitioner's role in the performance of the 2013 Agreement, is persuasive at first blush.

29. These documents show that the Petitioner was engaged in the execution or facilitation of services, which is a fact and not in dispute; however, they do not alter the fundamental legal position that the services

were rendered under the direct supervision and control of IVS Global, as well as for and on behalf of IVS Global. However, the e-mail dated 10.12.2025 issued by IVS Global indicates that it shall not be maintaining any further oversight on IVS Lanka/Petitioner. In these facts, the stand taken by the Respondent that Petitioner does not have *experience* to qualify the MEC is a plausible view. We say this, as IVS Lanka/Petitioner seems to overlook the significance of the oversight which IVS Global had and was the fundamental basis of the Respondent accepting the services of the IVS Lanka/Petitioner.

30. Section 230 of the Indian Contract Act, 1872 embodies the principle that where an agent acts for a disclosed principal, the principal alone is bound by and liable under the contract qua third parties. In the present case, IVS Lanka/Petitioner's role was admittedly that of an executing entity acting on behalf of and under the supervision of IVS Global, the disclosed and contracting principal, and not as an independent contracting party. Consequently, any operational involvement or performance by IVS Lanka/Petitioner may not qualify as contractual *experience* in its own right, particularly in the absence of any assignment or transfer of contractual rights in its favour. IVS Lanka/Petitioner's contention that actual performance should override the contractual framework is untenable, as its role remains as that of a facilitator under the supervision and control of the principal contractor i.e. IVS Global and not as that of an entity possessing independent contractual experience.

31. It is further pertinent that IVS Global is not a party to the present proceedings. It is also of considerable significance that IVS Global continues to exist as a separate and independent legal entity and, as

contended by the Respondent, is itself asserting and relying upon the experience emanating from the very same 2013 Agreement in other tender processes. The Respondent has specifically pointed out that in a separate tender floated for the High Commission of India at Singapore, both IVS Global and the present Petitioner (IVS Lanka) have independently participated by submitting their respective organisational profiles, each relying upon the experience derived from the Sri Lanka 2013 Agreement. It is pertinent to note that the Petitioner has not denied in its rejoinder, the averments made by the Respondent with respect to the dual claim by IVS Global and IVS Lanka for Singapore tender.

32. The Respondent has also placed reliance on a communication dated 19.04.2024 issued by IVS Global, wherein it has unequivocally represented itself as the service provider at the Mission in Sri Lanka; significantly, the said communication has been authored by Mr. Vivek Verma, CEO, who now represents IVS Lanka/Petitioner in the present proceedings, thereby lending further weight to the Respondent's contention regarding the attribution of contractual experience of the 2013 agreement being claimed by IVS Global.

33. Such a situation, where two distinct legal entities simultaneously seek to derive eligibility from a single contract (2013 Agreement) executed exclusively with one of them, would run contrary to the fundamental principles governing competitive bidding. The Respondent's apprehension in this regard cannot be said to be unfounded, particularly in light of tender conditions aimed at preventing cartelisation and ensuring fair competition.

V. <u>Penalty order and W.P. acknowledging Petitioner as service provider</u>

34. The Petitioner's reliance on prior pleadings in W.P.(C) 4674 of 2025

and the penalty order dated 14.11.2025 to contend that it was acknowledged as a service provider does not advance its case, as such recognition, at best, reflects its role as an agent executing functions on behalf of IVS Global, which alone remained the contracting principal and is itself asserting ownership over the said experience.

35. Even the penalty order, when read in its entirety, reinforces this position, inasmuch as the proceedings were initiated under the 2013 Agreement executed with IVS Global, and the primary obligation to justify charges, respond to notices, and discharge liability, including deposit of the penalty amount, was cast upon IVS Global. The reference to IVS Lanka therein as a 'locally registered entity' does not elevate its status to that of an independent contracting party but merely acknowledges its operational involvement within the framework of the principal contract.

36. The fact that the Respondent chose to address or include IVS Lanka in the penalty proceedings, or to extend the consequences thereof to the local entity, cannot be construed as conferral of independent contractual rights or attribution of experience, particularly when the contractual nexus, risk allocation, and ultimate contractual liability continued to vest with IVS Global. IVS Lanka/Petitioner had collected the charges which form the subject matter of the penalty order and is therefore a necessary party in those proceedings.

VI. First RFP Mistake and Ambiguity of relationship

37. Insofar as the Petitioner's reliance on its technical qualification under the first RFP dated 03.02.2025 is concerned, the same does not advance its case. The Respondent has satisfactorily explained that such evaluation proceeded on an understanding that IVS Lanka/Petitioner continued to

function under the organisational control of IVS Global. However, during the evaluation of the second RFP dated 27.11.2025, the Respondent received a communication dated 10.12.2025 from IVS Global clarifying that it would not be participating in the tender, which led to the realisation that the Petitioner was no longer operating under the supervision of IVS Global, thereby severing the erstwhile relationship between the entities. This constitutes a material change in circumstances. An erroneous or inadvertent evaluation in a prior tender process of the first RFP does not operate as an estoppel against the Respondent from correctly interpreting and applying the eligibility criteria in a subsequent tender, particularly where such correction is necessitated to preserve the sanctity of the bidding process.

38. This Court notes that there is ambiguity with respect to the current legal relationship between IVS Lanka/Petitioner and IVS Global. The present petition is silent and even during arguments the Petitioner was unable to explain the nature of its legal relationship with IVS Global. The reason for this ambiguity is unclear, however, IVS Global by its letter dated 10.12.2025 has communicated to the Respondent that it is not participating in this tender process leading the Respondent to believe that IVS Lanka does not have any managerial oversight from IVS Global; and in these circumstances if the Respondent believes that IVS Lanka/Petitioner would lack requisite expertise and not have the capacity to perform CPV services, is a view which is probable and this Court is not persuaded to set aside the decision of disqualification taken by Respondent on this assumption.

39. The Supreme Court in **Galaxy Transport Agencies v. New J.K. Roadways**[15], held that the authority that authors the tender document is the

[15] (2021) 16 SCC 808

best person to understand and appreciate its requirements, and thus, its interpretation should not be second-guessed by a court in judicial review proceedings. The relevant paragraphs reads as under: -

> "17. In accordance with these judgments and noting that the interpretation of the tendering authority in this case cannot be said to be a perverse one, the Division Bench [New JK Roadways v. UT of J&K, 2020 SCC OnLine J&K 733] ought not to have interfered with it by giving its own interpretation and not giving proper credence to the word "both" appearing in Condition No. 31 of the NIT. For this reason, the Division Bench's conclusion that JK Roadways was wrongly declared to be ineligible, is set aside.
> 18. Insofar as Condition No. 27 of the NIT prescribing work experience of at least 5 years of not less than the value of Rs 2 crores is concerned, suffice it to say that the expert body, being the Tender Opening Committee, consisting of four members, clearly found that this eligibility condition had been satisfied by the Appellant before us. Without therefore going into the assessment of the documents that have been supplied to this Court, **it is well settled that unless arbitrariness or mala fide on the part of the tendering authority is alleged, the expert evaluation of a particular tender, particularly when it comes to technical evaluation, is not to be second-guessed by a writ court.** Thus, in Jagdish Mandal v. State of Orissa [Jagdish Mandal v. State of Orissa, (2007) 14 SCC 517] , this Court noted : (SCC pp. 531-32, para 22)
> ……."
>
> [Emphasis Supplied]

40. The law is well settled that the author of the tender document is the best judge of its terms and the manner of their application. The Respondent, being the procuring entity, is thus entitled to interpret the eligibility conditions and assess the credentials of bidders in accordance with its commercial understanding and requirements.

41. The contention of the Respondent that, since the contractual risks and liabilities under the 2013 Agreement were borne exclusively by IVS Global, the factum of execution of on-ground operations by IVS Lanka/Petitioner

would not, by itself, satisfy the requirement of *experience*, constitutes a plausible and legally tenable interpretation of the eligibility condition.

42. The scope of judicial review under Article 226 in tender matters is limited to examining the decision-making process and not the merits of the decision itself. As laid down in **Tata Cellular** (supra) and **Jagdish Mandal** (supra), interference is warranted only where the decision is shown to be arbitrary, mala fide, irrational or illegal.

In the facts of the present case, the interpretation adopted by the Respondent, that the requisite experience claimed by the bidder must vest in it as the contracting party and cannot be derived as an agent of a separate legal entity (IVS Global) which supervised its operations, is a plausible and reasonable construction of the tender condition. While it appears that IVS Global has, in multiple jurisdictions (including UAE), adopted a model of operating through locally incorporated entities, thereby blurring functional roles, the absence of any formal assignment or novation remains determinative of deciding the *experience*. In these circumstances, the Respondent's categorical refusal to recognise IVS Lanka/Petitioner as the contracting party of the 2013 Agreement is consistent with settled legal principles and does not warrant interference in exercise of jurisdiction under Article 226.

43. This Court finds no mala fides, illegality, irrationality, or arbitrariness in the impugned interpretation and is of the considered view that the Petitioner has failed to establish that the decision dated 29.12.2025 warrants interference under Article 226.

44. The writ petition is accordingly dismissed. Pending applications, if any, disposed of. No order as to costs.

45. Interim order(s) stand vacated.

46. It is clarified that nothing observed in this judgment shall have a bearing on the rights and contentions of the parties in W.P.(C) 4674/2025 wherein penalty order dated 14.11.2025 is under challenge.

MANMEET PRITAM SINGH ARORA, J

V. KAMESWAR RAO, J

MARCH 30, 2026/AM