



2025:DHC:9750-DB



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

+ **W.P.(C) 16610/2025 & CM APPL. 68080/2025**

UNIVLABS TECHNOLOGIES

....Petitioner

Through: Mr. Mritunjay Kumar, Mr. Umesh Kr.
Choubey, Ms. Menaka Rengar,
Advocates.

versus

UNION OF INDIA & ORS

...Respondents

Through: Mr. Abhishek Gupta, CGSC with Mr.
Ashish Rawat, GP, UOI.

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Date of Decision: 4th November, 2025

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

J U D G E M E N T

TUSHAR RAO GEDELA, J: (ORAL)

1. Present writ petition has been filed under Article 226 of the Constitution of India assailing the rejection of the technical bid of the petitioner and the consequential award of Tender No.GEM/2024/B/5377991 by the respondent no.2/Directorate General Armed Forces Medical Services (DGAFMS), Ministry of Defence, in favour of the L-1 bidder. It further seeks reconsideration of the petitioner's technical bid in accordance with law, the MSME Policy, the Make in India framework and the Disclaimer Clause No.12 of the tender document; and to treat the petitioner as technically qualified and eligible for participation and award of the subject tender.



2. The respondent no.2/DGAFMS floated a tender bearing Tender No.GEM/2024/B/5377991 dated 12.09.2024 for the procurement of Office Hysteroscopy Set (Quantity: 74). It is stated that the petitioner, being the Original Equipment Manufacturer (OEM) of the offered product under the Make in India category, submitted its bid within the prescribed time which was fully compliant with all the specifications, terms, and conditions of the tender. It is the case of the petitioner that its bid was arbitrarily rejected during technical evaluation, on the ground that the average turnover of the OEM was less than Rs.70 crore, which was a criterion specified in the tender. Aggrieved by such decision, the petitioner made a detailed representation to the respondent authority on 07.05.2025 which was rejected by the respondent no.2 on 16.09.2025, constraining the petitioner to invoke the writ jurisdiction of this Court.

3. Principally, the petitioner, as canvassed by the learned counsel, is aggrieved by the act of declaration of disqualification of its technical bid in respect of the subject tender. Learned counsel for the petitioner states that the ground for disqualification is based on the allegation that the petitioner (OEM) had a turnover below Rs.70 crore, which made the petitioner ineligible as per the tender conditions. He vehemently contends that the said disqualification is contrary to the fact that the petitioner is a MSE and the procurement policy in respect of the MSEs provides exemption in respect of turnover and work experience which has been overlooked. He further contends that the subject tender gave an option of preference to MSEs as well as entities under the Make in India policy. According to learned counsel, the respondent authority was mandated to provide the relaxation in turnover and experience. Had such relaxation been applied in the case of the petitioner, the



petitioner's bid would not have been declared as disqualified. Based thereon, he contends that the impugned decision dated 06.05.2025 disqualifying the petitioner's bid be set aside and the said bid be reconsidered in accordance with law.

4. On a query by this Court, Mr. Abhishek Gupta, learned CGSC appearing for the respondents, on instructions, informed that on 18.09.2025, the financial bids were opened and the L-1 bidder was declared. Thereafter, on 30.09.2025, the tender was awarded and purchase orders were issued to the successful L-1 bidder and consequently, deliveries appear to have commenced.

5. In the background of the statement of learned counsel for the respondents, we do not find it appropriate to examine the controversy raised in the present petition on account of delay. To arrive at the aforesaid opinion, it is relevant to note that the bid of the petitioner was held to be disqualified on 06.05.2025 subsequent where to, the petitioner submitted a representation to the respondents on 07.05.2025. It appears that the said representation was rejected by the respondent no.2 only on 16.09.2025. Neither any argument nor any document demonstrating as to why the petitioner did not file any writ petition before this Court from 07.05.2025 till date has either been urged or placed on record. In the interregnum, as informed by learned counsel for the respondents, on 18.09.2025, not only the financial bids were opened but one of the bidders was also declared as L-1. That apart, by 30.09.2025, purchase orders were placed upon such L-1 and as per the statement of the learned counsel for the respondents, deliveries may have also commenced.

6. The aforesaid facts clearly demonstrate that the petitioner did not take appropriate action or redressal against its disqualification in time and



permitted supervening circumstances to intervene. The delay in such cases results in rights arising and vesting in third parties. In the present case, the petitioner due to its own negligence permitted the tender process to reach its logical conclusion and only thereafter, that too, after more than 30 days, has now challenged the original disqualification dated 06.05.2025. In case this Court were to intervene in such matters, it would not only impede the smooth execution of the contract/project under the subject tender but also lead to multiplicity of litigations and would surely not be in public interest. This aspect is no more *res integra* in view of the judgment of this Court in ***Prognosys Medical Systems Pvt. Ltd. vs. Union of India & Anr.*** dated 07.08.2025 in W.P.(C) 11730/2025. In almost similar circumstances, while the petitioner in ***Prognosys (supra)*** had challenged the tender conditions, the fact which appealed to this Court to dismiss the writ petition was the reasons for delay as noted in para 10 of the said judgment. This Court had relied upon the ratio laid down by the Hon'ble Supreme Court in ***Jagdish Mandal vs. State of Orissa & Ors.: (2007) 14 SCC 517***, particularly para 22 which is extracted hereunder:-

“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 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 licences, dealerships and franchises) stand on a different footing as they may require a higher degree of fairness in action."

[Emphasis supplied]

7. Applying the principles and the questions formulated and answered in ***Jagdish Mandal*** (*supra*) to the facts of the present case, we find that the same cannot but be answered in the negative. In the present case, the tender process has progressed not only to an advanced stage but has reached its logical conclusion as the purchase orders have been issued which are claimed to be under execution. Exercising discretionary jurisdiction by this Court at this belated stage would run contrary to the well established principles of law and more importantly, would fail to advance the larger public interest as halting or unsettling an ongoing public project would not only delay its completion but may also escalate the estimated project cost.

8. Except to submit a representation dated 07.05.2025 against the disqualification of its technical bid on 06.05.2025, no substantial steps at all



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were taken by the petitioner before a Court of law till the filing of the present writ petition on 30.10.2025. Keeping in view the aforesaid facts and the lackadaisical nature of the petitioner, we are not inclined to interfere in the concluded tender.

9. In view of the above, the writ petition being bereft of any reasons warranting interference in the tender process which has already reached its logical conclusion, is dismissed along with pending applications, if any, without any order as to costs.

TUSHAR RAO GEDELA, J

DEVENDRA KUMAR UPADHYAYA, CJ

NOVEMBER 04, 2025

yrj/rl