



2025:DHC:8896-DB



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

% Judgment reserved on: 26.09.2025
Judgment delivered on: 08.10.2025

+ W.P.(C) 15032/2025, CM APPL. 61924/2025, CM APPL. 61925/2025
& CM APPL. 61926/2025

M S RST SEMICONDUCTORS PRIVATE LTDPetitioner

versus

BHARAT SANCHAR NIGAM LTD BSNLRespondent

Advocates who appeared in this case:

For the Petitioner: Mr. Abhimanyu Bhandari, Sr. Advocate with Mr. Arjun Syal, Mr. Shreyan Das and Mr. Indhirajith Prabhakaran M., Advocates

For the Respondent: Ms. Leena Tuteja and Ms. Ishita Kadyan, Advocates for BSNL.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

J U D G M E N T

TUSHAR RAO GEDELA, J.

1. Present petition has been filed under Article 226 of the Constitution of India, 1950, seeking setting aside of the Order bearing no. BSNLCOMMT/14/4/2025-MMT dated 24.09.2025, issued by the Respondent in Tender No.MM/NWP-GSM/5G USIM/T-848/2025 on 13.05.2025, and further seeks a direction to the respondent to proceed with the opening of the financial bid fairly and transparently in accordance with the terms of the said tender. The petitioner also seeks setting aside of the Tender No.MM/NWP-GSM/5G USIM/T-860/2025 issued on 24.09.2025 by the respondent (hereinafter referred to as "*New Tender*").



2. It is stated that on 13.05.2025, the respondent issued Tender No. MM/NWP-GSM/5G USIM/T-848/2025 for the supply of 1 crore 128k re-pluggable (2ff+3ff+4ff) 5G NSA-ready SIM/USIM cards for BSNL customers in different Circles (hereinafter referred to as the “NIT”). In terms of the NIT, the final date for bid submission was 03.06.2025, with bids mandatorily required to be submitted online and in sealed form.

3. It is the petitioner’s case that, despite certain clauses and conditions stipulated therein regarding the eligibility criteria and submission of bids, the respondent extended the deadline for bid submission to 17.06.2025, with the bid opening date correspondingly extended to 18.06.2025, *vide* Corrigendum dated 03.06.2025, without assigning any cogent reason. It is further stated that, subsequently, on 17.06.2025, the respondent again extended the deadline for submission of bids to 01.07.2025, with the bid opening date extended to 02.07.2025.

4. It is stated that, *vide* letter dated 21.06.2025, the petitioner raised pre-bid queries/comments, which were duly communicated to the respondent regarding the amendment of the eligibility criteria and other clauses of the NIT. However, the respondent, for the third time, extended the deadline for submission of bids to 08.07.2025, with the bid opening date correspondingly extended to 09.07.2025, by way of Corrigendum dated 01.07.2025. Pursuant to the said extension, the petitioner, in accordance with the NIT, submitted its comprehensive bid documents. It is further stated that the petitioner, *vide* letter dated 19.07.2025, raised objections regarding various issues in the tender as well as the participation of three ineligible bidders. However, the respondent was non-responsive to the said letter.

5. It is the case of the petitioner that, on 15.09.2025, the technical evaluation was completed by the Committee for Evaluation of Tender



(hereinafter referred to as “*CET*”), and the petitioner along with four other bidders, were declared techno-commercially eligible. Pursuant to the said *CET* report, the financial bid opening was scheduled for 18.09.2025. However, on the said date, the respondent deferred the opening of the financial bid without assigning any cogent reason. Thereafter, on 24.09.2025, the respondent passed the Impugned Order, cancelling the entire tender process and proceeded to issue a New Tender.

6. Being aggrieved by the aforesaid arbitrary actions of the respondent, the petitioner is constrained to invoke the jurisdiction of this Court under Article 226 of the Constitution of India, 1950.

7. Mr. Abhimanyu Bhandari, learned senior counsel appearing for the petitioner, submitted that the respondent could not have annulled/cancelled the tender process of the subject tender, particularly without any plausible reason for such annulment/cancellation. He stated that the petitioner was declared eligible so far as the techno-commercial bid was concerned, alongwith other eligible bidders. He further submitted that even on the date of opening of the techno-commercial bid, the date of opening of the financial bid was duly notified in terms of the NIT. However, even before the tender process could proceed to the stage of the opening of the financial bid, the respondent cancelled the entire tender process without assigning any cogent reason.

8. Apart from the above, learned senior counsel also contended that in reality, respondent undertook such action with the motive of unfairly favouring three entities which were otherwise ineligible and were rightly disqualified by the respondent. He contended that this Court, in the aforesaid facts, may and ought to, interdict the impugned cancellation order and direct the respondent to complete and conclude the tender process.



9. We have heard the learned senior counsel for the petitioner and learned counsel for the respondent and perused the records of the case.

10. The law in regard to the annulment and or cancellation of the tender process is too well settled to brook any ambiguity. The Hon'ble Supreme Court in **IJM Corporation Berhad vs. NHAI & Anr.**, SLP(C) No.10811/2022 decided on 05.07.2022 and this Court in **VRC Construction (India) Private Limited vs. NHAI**, W.P.(C) No.5564/2024 decided on 02.12.2024 and **Rajeev Electricals vs. Govt. of NCT of Delhi & Ors.**, W.P.(C) No.786/2025 decided on 22.01.2025 have upheld the aforesaid proposition. In **IJM Corporation Berhad** (supra), Supreme Court has categorically held as under:

“Apart from the reasons recorded by the High Court, this Court finds that a tenderer has no right to question the cancellation of the tender process or the action of the employer not to accept a single tender. Moreover, our attention has been drawn to the tender documents and, in particular, Volume I of the revised RFP, that is, bid documents for International Competitive Bidding under a Single Stage Bidding Process will be precisely for six laning of Kagal – Satara Section of NH-48 under the Bharatmala Pariyojana.

Clause 2.16 provides that notwithstanding anything contained in the RFP, the Authority reserves the right to reject any bid and to annul the bidding process and reject all bids at any time without any liability or any obligation for such acceptance, rejection or annulment, and without assigning any reasons thereof. In the event the NHAI rejects or annuls all the bids, it may, in its discretion, invite all eligible bidders to submit fresh bids hereunder. Clause 3.8.2 of the Bid document clearly provides that in the event highest bidder withdraws or is not selected for any reason, the authority shall annul the bidding process and invite fresh bids. In the event the authority rejects or annuls all the bids, it may, in its discretion invite all eligible bidders to submit fresh bids.

The NHAI had clearly reserved to itself the right to annul the bidding process. Clause 6.2 provided that the NHAI might have sole discretion and without incurring any obligation or liability, suspend and/or cancel the bidding process and/or amend and/or supplement the bidding process or modify the dates or other terms and conditions relating thereto.

The petitioner submitted its tender in terms of the RFP and obviously after going through the terms and conditions of the RFP. It is not open to the petitioner to question the annulment of the tender process.



This Court is also unable to accept the emphatic submission of Mr.Ranjit Kumar, learned senior counsel that the rejection is totally arbitrary and unreasonable. The decision has apparently been taken having regard to the financial interest of the NHAI. However, it is not necessary for this Court to go into the calculations presented by Mr.Parag P. Tripathi, learned senior counsel appearing on behalf of the NHAI since this Court does not sit in appeal over the merits of an administrative decision to annul the tender process, in a Special Leave Petition arising out of an application under Article 226 of the Constitution.”

[Emphasis supplied]

11. What can be culled out from the ratio laid down by the aforesaid judgments, including the judgment in **IJM Corporation** (*supra*) rendered by the Hon’ble Supreme Court is that the tendering authority is entitled to cancel or annul the NIT for reasons which may not require disclosure. Even in the present case, clause 26 of the NIT vests similar right upon the respondent to annul the tender process without assigning any reasons. Clause 26 of Section 4, Part – A of the NIT, which are the General Instructions to Bidder, reads thus:

“Clause 26: Purchaser’s Right To Accept Any Bid And To Reject Any Or All Bids:

The purchaser reserves the right to accept or reject any bid, and to annul the bidding process and reject all bids, at any time prior to award of contract without assigning any reason whatsoever and without thereby incurring any liability to the affected bidder or bidders on the grounds of purchasers action”.

Thus, the ratio in **IJM Corporation** (*supra*) would apply to the present case too. Mr. Bhandari, learned senior counsel fairly does not dispute the aforesaid position in law.

12. In the present case, the technical bid appears to have been opened and evaluated, however, before the Tendering Authority/respondent could proceed further to open the financial bids, the competent authority appears to have decided to annul the NIT. It is no more *res integra* that a bidder, even if it is declared as L-1, has no right to seek a direction that it be awarded the



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contract. (See para 18(b) of *Ozar Homes LLP through its Partner Mr. Nitin Kumar Lila vs. Delhi Development Authority & Anr.*, LPA 249/2025 decided on 23.09.2025). Applying the aforesaid principle, the present *lis*, we find that there is no right, much less a fundamental right available to the petitioner at the stage at which the tender process was annulled, to question the annulment process.

13. In that view of the matter, we do not find any reason, much less a cogent reason to interfere with the decision dated 24.09.2025 annulling the NIT in the subject tender and thus, the instant writ petition is dismissed alongwith the pending applications.

TUSHAR RAO GEDELA, J

DEVENDRA KUMAR UPADHYAYA, CJ

OCTOBER 08, 2025/rl