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

% **Judgment reserved on: 26.08.2025**
Judgment delivered on: 23.09.2025

+ **LPA 249/2025 & CM APPLs. 21891-92/2025**

OZAR HOMES LLP THROUGH ITS PARTNER MR NITIN KUMAR LILA
...Appellant

Through: **Mr. Sudhir Nandrajog, Sr. Adv. with Mr. Fanish K. Jain, Mr. Ritik Duggal and Mr. Rohit Yadav, Advs.**

versus

DELHI DEVELOPMENT AUTHORITY AND ANR.....Respondents

Through: **Ms. Mrinalini Sen, Standing Counsel with Ms. Nishtha Tyagi, Adv. for DDA.**

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

J U D G M E N T

DEVENDRA KUMAR UPADHYAYA, C.J.

1. This intra-court appeal filed in Clause X of the Letters Patent takes exception to the judgment dated 25.02.2025 passed by the learned Single Judge, dismissing the Writ Petition (C) 994/2023 instituted by the appellant/petitioner.



2. The respondent no.1/Delhi Development Authority ['DDA'] issued a tender for e-auction on 09.10.2022 for sale of Group Housing Plots. The said tender was issued in respect of four plots situated in Section-32, Rohini, Delhi, including plot Pocket-2(c), Block-B, which is the subject plot. The appellant/petitioner submitted its bid for two plots, namely, the subject plot and also the plot Pocket-2(b), Block-B. The reserve price for the plots was fixed at Rs.95,86,94,400/- (Rupees Ninety-Five Crore Eighty-SixLakh Ninety-Four Thousand and Four Hundred only). In the said auction, the appellant/petitioner offered the highest bid amount of Rs.135,61,94,400/- (Rupees One Hundred Thirty-Five Crore Sixty-One Lakh Ninety-Four Thousand Ninety-Four Thousand and Four Hundred only) and accordingly it was declared the 'H-1' bidder.

3. On 15.11.2022, a communication was made to the appellant/petitioner that its bid stood the highest, which, however, was subject to acceptance of the bid.

4. The Threshold Committee, in its meeting held on 16.12.2022, examined the e-auction cases of Group Housing Plots, and in respect of the subject plot, it was observed by the Threshold Committee that six bidders have participated as against 515 bids received. The Committee further observed that the adjoining plot, i.e. Pocket-2(b), Block-B, Sector-32, Rohini, Delhi, fetched higher price, i.e. Rs.1,23,546.13 per square meter in comparison to the subject plot which fetched the rate of Rs.99,137.01per square meter, and further that the subject plot may fetch a higher amount. Giving the said reason, the Threshold Committee unanimously decided to



reject the bid offered by the appellant/petitioner (H-1), and it was directed that the subject plot be placed for re-auction in the upcoming e-auction. The reason given by the Threshold Committee is extracted herein below:-

“2. Pocket 2(c) Block B, Sector 32, Rohini (Plot id 2515): The plot was put up for the first time in auction. It was observed that 06 bidders participated and 515 bids received. It has been observed by the Threshold Committee that adjoining plot i.e. Pocket 2(b), Block B, Sector 32, Rohini (Plot id 1243) fetched higher price i.e. 123546.13 per sqmts in comparison to this plot i.e. 99137 .01 per sqmts and higher bid may receive for this plot. Accordingly, it was unanimously decided to reject the H1 bid and the plot be placed in upcoming E-auction.”

5. The appellant/petitioner, though was communicated that the bid submitted by it is the highest, did not receive any communication for issuance of Letter of Intent and accordingly, an email communication was made by the appellant/petitioner on 24.12.2022 followed by a reminder on 29.12.2022, informing the DDA that it had not received the Letter of Intent though it was declared as the highest bidder. By the reminder letter dated 29.12.2022, the appellant/petitioner also requested that the bid offered by it may be approved.

6. Following the decision of the Threshold Committee of the respondent no.1/DDA dated 16.12.2022, the Earnest Money Deposit [‘EMD’] amount was refunded to the appellant/petitioner, which led the appellant/petitioner to file W.P. (C) 994/2023, which has been dismissed by the judgment and order under challenge herein.



7. The appellant/petitioner, while instituting the proceedings of the said writ petition, prayed that a direction be issued to the respondent no.1/DDA to issue a Letter of Intent in respect of the subject plot and further the respondent no.1/DDA be directed to take a decision on the application preferred by the appellant/petitioner, dated 29.12.2022. On 30.01.2023, during the course of hearing before the learned Single Judge, the respondent no.1/DDA handed over the minutes of the meeting of the Threshold Committee dated 16.12.2022, to the appellant/petitioner. The learned Single Judge, on the said date itself, passed an order that the competent authority of the respondent no.1/DDA shall grant an oral hearing to the appellant/petitioner on 07.02.2023, and the decision to be taken on 07.02.2023 on providing an oral hearing to the appellant/petitioner shall be placed before this Court.

8. Accordingly, in compliance of the said order dated 30.01.2023 passed by the learned Single Judge, the appellant/petitioner was given an opportunity of hearing on 07.02.2023 and the competent authority i.e., Vice-Chairman of the respondent no.1/DDA, rejected the prayer for review of the decision of the Threshold Committee, which was communicated to the appellant/petitioner by means of the letter dated 20.09.2023 issued by the Deputy Director (Group Housing) of the respondent no.1/DDA.

9. After hearing the parties, however, the learned Single Judge did not find any merit in the claim of the appellant/petitioner and dismissed the writ petition by means of the judgment and order dated 25.02.2025. It is this



order of dismissal of the writ petition passed by the learned Single Judge, which is under challenge in this appeal.

10. The learned Single Judge, while examining the claim of the respective parties as pleaded in the proceedings of the writ petition, has arrived at a conclusion that merely because the appellant/petitioner was declared to be the highest bidder, it will not create any vested right in the appellant/petitioner for acceptance/approval of the bid offered by it. The learned Single Judge has also held after discussing the legal principles governing the scope of judicial review in such matters that the respondent no.1/DDA did not accept the bid offered by the appellant/petitioner, though it was declared to be 'H-1' bidder by giving reasons, which were within the competence of the respondent no.1/DDA in terms of various clauses of tender notice and as such no interference in the decision was permissible.

11. Heard the learned counsel for the parties and perused the records available before us on this appeal.

12. It has been contended on behalf of the appellant/petitioner that the decision, while rejecting the highest bid, which was 40% above the reserve price and more than the threshold price, is arbitrary, unfair and against the principles of fair play and equity, and as such, the decision was not sustainable. It has also been argued on behalf of the appellant/petitioner that while taking the decision not to accept the bid offered by the appellant/petitioner, the respondent no.1/DDA has not followed the provisions of the Circular dated 28.06.2019, which has been issued for streamlining the procedure for processing of bids.



13. Drawing our attention to the contents of the Circular dated 28.06.2019, it has been argued by the learned counsel for the appellant/petitioner that complete procedure has been prescribed in the said circular, which is expected to be followed during an e-auction process as well as after closing of e-auction, according to which, in case multiple bids are received and 'H-1' price is found to be below and equal to threshold, then the case is to be referred to the Threshold Committee, however in case 'H-1' price is found to be above the threshold, bid is to be accepted. It has been argued, thus, by learned counsel for the appellant/petitioner, that in the instant case multiple bids were received and since the price offered by the appellant/petitioner was above the threshold price, as such its bid ought to have been accepted. He has also argued that the Circular dated 28.06.2019 also provides for a methodology to be followed for calculation of the threshold, according to which the data is to be collected relating to reserve price, area, 'H-1' premium in respect of the plot situated in a region where plots are of similar categories which are auctioned during last one year including the current auction. The said methodology for calculation of the threshold also provides a formula to arrive at the threshold price. It has further been argued on behalf of the appellant/petitioner that the minutes of the meeting of the Threshold Committee where decision was taken not to accept the bid of the appellant/petitioner, did not precede the methodology for calculation of the threshold price and as such the decision so arrived at by the Threshold Committee is in contravention of the procedure as prescribed in the Circular dated 28.06.2019 which vitiates the decision of respondent no.1/DDA of not approving the bid of the appellant/petitioner.



14. It has also been argued by the learned counsel for the appellant/petitioner that the Threshold Committee on 06.09.2022, had arrived at the threshold value in respect of the subject plot as Rs.87,235.77, whereas the price offered by the appellant/petitioner for the subject plot was Rs.99,137.01 per square meter, and accordingly, the decision not to accept the bid is contrary to the policy as embodied in the Circular dated 28.06.2019 as modified by another Circular dated 06.05.2020. It is to be noticed at this juncture that the Circular dated 06.05.2020 was issued by the respondent no.1/DDA in partial modification of the earlier Circular dated 28.06.2019, which only added a clause that in case number of plots in a region is less than or equal to three, the threshold may not be calculated and all the bids received shall be referred to the Threshold Committee for consideration and further that in order to avoid discrimination, the Committee will lay down the parameters/principles for consideration of the cases and such parameters shall be documented for guidance of the Committee for future cases.

15. Another submission made by the learned counsel for the appellant/petitioner is that subject plot was a multi-cornered plot and of uneven size and whereas the plot taken into consideration for comparison with the subject plot is rectangular in shape and further that the subject plot is facing unauthorized colony, and therefore, value of such property is always lesser than the properties which are bounded by the DDA allocated planned properties. In this view, the submission is that based on such comparison, the decision arrived at by the respondent no.1/DDA that the subject plot may fetch a higher price is erroneous.



16. Opposing the appeal, learned counsel representing the respondent no.1/DDA has emphatically submitted that, considering the scope of judicial review which is permissible in such matters and also taking into account the reason for non-acceptance of the bid offered by the appellant/petitioner, though it was the highest, the learned Single Judge has arrived at a correct conclusion. Further submission on behalf of the respondent no.1/DDA is that 'H-1' bidder does not get any vested or otherwise right of confirmation/approval of the bid, which depends on various factors including the potential of the plot in question of fetching higher price which is a valid consideration, and as such, the submissions made in support of the appeal by the learned counsel for the appellant, are un-meritable. It is further stated by the learned counsel for the respondent no.1/DDA that in absence of any proven *malafide* or irrationality or arbitrariness in the decision whereby the bid offered by the appellant/petitioner has not been accepted, no interference in exercise of the power of judicial review is legally permissible and learned Single Judge, keeping in view these established legal principles, has rightly dismissed the writ petition by the order and judgment under appeal, which does not warrant any interference in this appeal.

17. On behalf of the respondent no.1/DDA, judgments of this Court in **Shrenik Properties Pvt. Ltd. v. Delhi Development Authority and Another, 2019 SCC Online Del 10562** and a judgment dated 04.08.2023 passed in **Sushil Kumar Jain v. Delhi Development Authority and Anr., W.P. (C) 10304/2023**, have been heavily relied upon.



18. Having considered the rival submissions made by the learned counsel for the respective parties, we are unable to find ourselves in agreement to the submissions made by the learned counsel for the appellant/petitioner for the following reasons:-

a. The Hon'ble Supreme Court in the case of **Jaipur Vidyut Vitran Nigam Ltd. v. MB Power (M.P.) Ltd.,(2024) 8 SCC 513**, after referring to an earlier judgment in **Air India Ltd. v. Cochin International Airport Ltd.,(2000) 2 SCC 617** and **Tata Cellular v. Union of India,(1994) 6 SCC 651**, has held that unless the Court finds that decision making process is vitiated by arbitrariness, *malafides* or irrationality, it will not be permissible for the Court to interfere with the same. Paragraphs 136 to 138 of the **Jaipur Vidyut Vitran Nigam Ltd. (supra)** are extracted herein below:

“136. In any case, we find that the High Court was not justified in issuing the mandamus in the nature which it has issued. This Court in Air India Ltd. v. Cochin International Airport Ltd. [Air India Ltd. v. Cochin International Airport Ltd., (2000) 2 SCC 617 : 2000 INSC 39] has observed thus : (SCC pp. 623-24, para 7)

“7. The law relating to award of a contract by the State, its corporations and bodies acting as instrumentalities and agencies of the Government has been settled by the decision of this Court in Ramana Dayaram Shetty v. International Airport Authority of India [Ramana Dayaram Shetty v. International Airport Authority of India, (1979) 3 SCC 489] , Fertilizer Corpn. Kamgar Union v. Union of India [Fertilizer Corpn. Kamgar Union v. Union of India, (1981) 1 SCC 568]



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, *CCE v. Dunlop India Ltd.* [*CCE v. Dunlop India Ltd.*, (1985) 1 SCC 260] , *Tata Cellular v. Union of India* [*Tata Cellular v. Union of India*, (1994) 6 SCC 651 : 1994 INSC 283] , *Ramniklal N. Bhutta v. State of Maharashtra* [*Ramniklal N. Bhutta v. State of Maharashtra*, (1997) 1 SCC 134] and *Raunaq International Ltd. v. I.V.R. Construction Ltd.* [*Raunaq International Ltd. v. I.V.R. Construction Ltd.*, (1999) 1 SCC 492] The award of a contract, whether it is by a private party or by a public body or the State, is essentially a commercial transaction. In arriving at a commercial decision considerations which are paramount are commercial considerations. The State can choose its own method to arrive at a decision. It can fix its own terms of invitation to tender and that is not open to judicial scrutiny. It can enter into negotiations before finally deciding to accept one of the offers made to it. Price need not always be the sole criterion for awarding a contract. It is free to grant any relaxation, for bona fide reasons, if the tender conditions permit such a relaxation. It may not accept the offer even though it happens to be the highest or the lowest. But the State, its corporations, instrumentalities and agencies are bound to adhere to the norms, standards and procedures laid down by them and cannot depart from them arbitrarily. Though that decision is not amenable to judicial review, the court can examine the decision-making process and interfere if it is found vitiated by mala fides, unreasonableness and arbitrariness. The State, its corporations, instrumentalities and agencies have the public duty to be fair to all concerned. Even when some defect is found in the decision-making process the court must exercise its discretionary power under Article 226 with great caution



and should exercise it only in furtherance of public interest and not merely on the making out of a legal point. The court should always keep the larger public interest in mind in order to decide whether its intervention is called for or not. Only when it comes to a conclusion that overwhelming public interest requires interference, the court should intervene.”

137. It could thus be seen that this Court in Air India case [Air India Ltd. v. Cochin International Airport Ltd., (2000) 2 SCC 617 : 2000 INSC 39] has held that the award of a contract, whether it is by a private party or by a public body or the State, is essentially a commercial transaction. In arriving at a commercial decision, considerations which are paramount are commercial considerations. It has been held that the State can choose its own method to arrive at a decision. It can fix its own terms of invitation to tender and that is not open to judicial scrutiny. It has further been held that the State can enter into negotiations before finally deciding to accept one of the offers made to it. It has further been held that, price need not always be the sole criterion for awarding a contract. It has been held that the State may not accept the offer even though it happens to be the highest or the lowest. However, the State, its corporations, instrumentalities and agencies are bound to adhere to the norms, standards and procedures laid down by them and cannot depart from them arbitrarily. Though that decision is not amenable to judicial review, the Court can examine the decision-making process and interfere if it is found vitiated by mala fides, unreasonableness and arbitrariness. It has further been held that even when some defect has been found in the decision-making process, the Court must exercise its discretionary power under Article 226 with great caution and should exercise it only in furtherance of public interest and



not merely on the making out of a legal point. The Court should always keep the larger public interest in mind in order to decide whether its intervention is called for or not. Only when it comes to a conclusion that overwhelming public interest requires interference, the Court should intervene.

138. As has been held by this Court in Tata Cellular [Tata Cellular v. Union of India, (1994) 6 SCC 651 : 1994 INSC 283], the Court is not only concerned with the merits of the decision but also with the decision-making process. Unless the Court finds that the decision-making process is vitiated by arbitrariness, mala fides, irrationality, it will not be permissible for the Court to interfere with the same.”

b. It is settled law that no right is created in favour of the highest bidder, and merely because a bidder is declared to be ‘H-1’, it will not vest any right in such a bidder for approval of the bid and subsequent issuance of Letter of Intent.

c. It is equally settled a legal principle that even when some defect is found in the decision-making process, especially in the public tender/public auction matters, the Court must exercise its discretionary powers under Article 226 of the Constitution of India with great caution and should exercise it only in furtherance of public interest and not merely on the making out of a legal point. The Court should always keep the larger public interest in mind in order to arrive at its decision as to whether the Court’s intervention is warranted or not, and only when the Court concludes that overwhelming public interest requires interference, that intervention may be made. It is also to be noticed that in **Jaipur Vidyut Vitran Nigam**



Ltd. (*supra*), the Hon'ble Supreme Court has clearly held that the award of contract, whether it is by a private party or public body or the State, is essentially a commercial transaction and in arriving at a commercial decision, considerations which are paramount are commercial considerations. Thus, though price fetched in such matters will not be the sole criterion in arriving at a decision by a public authority, however, since award of contract or settling any rights by way of auction is essentially a commercial transaction, a public body or authority, in arriving at a commercial decision, has to be weigh commercial considerations in its favour which are paramount.

d. Thus, if we consider the submissions made by the learned counsel for the appellant in the light of the legal principles as discussed above which have been laid down by the Hon'ble Supreme Court and act as guidance for this Court to exercise the power of judicial review under Article 226 of the Constitution of India, what we find is that though the price offered by the appellant/petitioner was the highest for the subject plot, however, the respondent no.1/DDA by giving valid reasons has concluded that the subject plot has the potential of fetching more price. The respondent no.1/DDA has arrived at the conclusion that the subject plot has a potential of fetching more price than what was offered by the appellant/petitioner which is based on the price fetched in respect of a plot situated in the vicinity of the subject plot, in the previous auction. It is not that such a conclusion has been drawn by the respondent no.1/DDA without any material for the reason that the price fetched in respect of a plot in the vicinity of the subject plot is a valid, legitimate and relevant material



available for arriving at such conclusion. The decision of *not accepting the bid offered by the appellant/petitioner*, has to be thus viewed and examined in the light of the law laid down by the Hon'ble Supreme Court in **Jaipur Vidyut Vitran Nigam Ltd. (supra)**, wherein even in case of public bodies/authorities, it has been propounded that entering into a contract (and likewise auctioning a plot), the commercial considerations are paramount considerations which should weigh in the mind of public authority as well, like a private party.

e. The submission of the learned counsel for the appellant/petitioner that the price offered by the appellant/petitioner was 41% above the reserve price also loses its significance in the light of the conclusion drawn by the respondent no.1/DDA that the subject plot has the potential of fetching more price, which conclusion is based on relevant material available on record of the respondent no.1/DDA.

f. As regards the submission of the learned counsel for the appellant/petitioner that while arriving at a decision not to approve the highest bid offered by appellant/petitioner, the Circular dated 28.06.2019 as modified by the Circular dated 16.12.2022, is concerned, we may only state that such circulars are issued for the guidance of the Threshold Committee and other authorities of the respondent no.1/DDA, which, though should be followed, however minor deviation here and there in a situation where the decision is based on relevant consideration and which does not suffer from any *malafide*, cannot be a ground for challenging the same.



g. Learned Single Judge has considered all the aforesaid aspects of the matter and has given cogent reasons for dismissing the writ petition. For the reasons stated above, we are not convinced to take a view other than the one taken by the learned Single Judge.

h. Almost in similar circumstances, a Division Bench of the Bombay High Court in **Shree Ganesh Enterprises v. City & Industrial Development Corpn. of Maharashtra Ltd., 2024 SCC OnLine Bom 2346**, dismissed the writ petition filed by the highest bidder in respect of an auction held for the lease of plots for residential-cum-commercial use.

19. Accordingly, we are of the considered opinion that the instant appeal lacks merit, which is hereby dismissed. The pending applications also stand dismissed.

20. However, there will be no order as to costs.

(DEVENDRA KUMAR UPADHYAYA)
CHIEF JUSTICE

(TUSHAR RAO GEDELA)
JUDGE

SEPTEMBER 23, 2025
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