



**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Civil Writ Petition No. 10082/2023

1. Consortium Of Telecommunications Consultants India Limited And Krsnaa Diagnostics Limited, Through Its Authorised Representative Name Pramod Kumar Goyal Son Of Late Kishan Chand Goyal Aged 59 Years, R/o 24-C, Janakpuri Maholi Marg, Uttar Pradesh.
2. Telecommunications Consultants India Limited, Through Its Authorised Representative Having Its Office At Tcil Bhawan, Greater Kailash-I, New Dehli 110048, Through Its Authorized Representative Name Pramod Kumar Goyal S/o Late Kishan Chand Goyal Age 59 Years, R/o 24-C, Janakpuri Maholi Marg, Maholi Uttar Pradesh.
3. Krsnaa Diagnostics Limited, Through Its Managing Director, Having Its Office At S.no. 243/a, Hissa No. 6, Cts No. 4519, 4519/1, Near Chinchwad Station, Chinchward, Taluka-Haveli, Pune, Maharashtra, Through Its Authorised Representative Name Ms. Pallavi Shantilal Bhatevara D/o Shantilal Bhatevara, Aged About 45 Years, Working As Managing Director, Resident Of Princeton Town Road House No. 1, Opp. Forteleza, Maharashtra.

----Petitioners

Versus

1. State Of Rajasthan, Through Its Secretary, Medical Health And Family Welfare Department, Government Of Rajasthan, Jaipur.
2. Mission Director, National Health Mission, Government Of Rajasthan, Jaipur.
3. Managing Director, Rajasthan Medical Services Corporation Ltd., Jaipur.

----Respondents

For Petitioner(s) : Mr. K.M. Nataraj. Sr. Adv. & ASG
through VC
Dr. Sachin Acharya, Sr. Adv. assisted
by Mr. Ankur Mathur &
Mr. Vivek Mathur

For Respondent(s) : Mr. Vikas Balia, Sr. Adv. assisted by
Mr. Sharad Kothari.
Ms. Vandana Bhansali, AGC.

HON'BLE DR. JUSTICE PUSHPENDRA SINGH BHATI



02/08/2023

1. This writ petition under Article 226 of the Constitution of India has been preferred claiming the following reliefs:

“(i) Issue an appropriate writ/order/direction in the nature of certiorari for quashing of the impugned communication dated 18.07.2023 (Annexure-15), whereby the letter of acceptance of the petitioner consortium was cancelled;

(ii) Issue an appropriate writ/order/direction in the nature of mandamus directing the respondent Nos. 1 to 3 to issue a declaration to the effect that the impugned order dated 18.07.2023 (Annex.15) is bad in the eyes of law and cannot be sustained.

(iii) Issue an appropriate writ/order/direction in the nature of mandamus directing the respondent Nos.1 to 3 to not take any prejudicial action against the petitioners pursuant to order dated 18.07.2023 (Annexure-15).

(iv) Issue an appropriate writ/order/direction in the nature of certiorari for quashing of the impugned order dated 19.07.2023 (Annexure-17), whereby the letter of acceptance of the petitioner consortium was cancelled.

(v) Issue an appropriate writ/order/direction declaring that the petitioner is exempted from submission of performance security/ additional performance security for execution of the contract.

(vi) Issue an appropriate writ/order/direction to the Respondents to act upon the letter of acceptance dated 09.05.2023 (Annex.6) and execute agreement in favour of the Petitioner No.1 at the earliest;

(vii) Issue an appropriate writ/order/direction to the Respondents to comply by the terms and conditions of NIT dated 07.12.2022 (Annex-1) and RFP dated 07.12.2022 (Annex.1) in favour of the Petitioner No.1 at the earliest in order to implement the public project.

(vi) the cost of the writ petition be allowed in favour of the petitioner.”



2. This Court, upon submissions of Mr. K.M. Nataraj, learned Senior Counsel & ASG and Dr. Sachin Acharya, learned Senior Counsel assisted by Mr. Ankur Mathur and Mr. Vivek Mathur, had taken note of the fact that a very submission was made, upon which, the following order was passed by this Court on 24.07.2023:

“Learned Additional Solicitor General Mr. K.M. Nataraj and Dr. Sachin Acharya Sr. Advocate assisted by Mr. Vivek Mathur and Mr. Ankur Mathur appearing on behalf of the petitioners makes a limited submission at this stage that they are prepared to fulfill every lawful conditions of the E-tender in question. They also submitted that a representation regarding the same was submitted to the respondents prior to the termination of the E-tender. The termination dated 19.07.2023 is on record.

At the threshold, a suggestion has been given by the learned Additional Solicitor General that the respondents-State may still consider the petitioners' case, if they are in a position to satisfy them on all the conditions of E-tender, which are lawful, to be abided by the petitioners; in that case, it would not be necessary for this Court to enter into merits of the case.

The suggestion is accepted.

The Government Counsel Ms. Vandana Bhansali is directed to complete her instructions regarding the suggestion made by learned counsel for the petitioners.

Such instruction shall be completed by next date.

List on 02.08.2023.”

3. Today when Ms. Vandana Bhansali, learned Additional Govt. Counsel appearing on behalf of the State was asked as to what were the instructions regarding the limited submissions made and the order passed by this Court on 24.07.2023, whereupon she categorically submits that the State Government is willing to grant the petitioners the E-Tender arising out of the NIT in question.



Such expression has been expressed by Ms. Bhansali because of the directions given by this Court to her to reconsider it on 24.07.2023.

3.1. Ms. Bhansali further submits that letter of acceptance, which the State had earlier agreed to, was not given only because the petitioners have failed to furnish an additional performance security for the complete three years, instead the same was given only for one year.

4. Thus, in sum and substance, Ms. Bhansali submits that the State is willing to allow the petitioners to go ahead with the agreement in question and execute the project only on the condition that they give additional performance security for three years *plus 60 days*.

5. Mr. K.M. Nataraj, learned Senior Counsel & ASG and Dr.Sachin Acharya, learned Senior Counsel assisted by Mr. Ankur Mathur and Mr. Vivek Mathur, categorically submit that the petitioners (the Consortium and the Corporation of Government of India Public Sector Enterprise) are willing to furnish the additional performance security in terms of the statement made by Ms.Bhansali for a period of 3 years *plus 60 days*.

6. In light of the aforesaid submissions, it is directed that the petitioners shall furnish the additional performance security to the satisfaction of the State Government within a period of one week from today. Since both the parties are prepared to go ahead with the agreement, but for the glitch of the guarantee, no contest



between them remains. The aforesaid directions shall accordingly be complied with.

7. With the aforesaid directions, the writ petition is disposed of.

All pending applications also stand disposed of.

(DR.PUSHPENDRA SINGH BHATI), J.

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