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

% *Judgment Reserved on: 21.08.2026*
*Judgment delivered on: 25.08.2026*
*Judgment uploaded on: 25.08.2026*

\# **CNR No. DLHC010354712026**

\+ W.P.(C) 11017/2026 CM APPL. 51020/2026

BLUSPRING ENTERPRISES LIMITED ..... Petitioner

versus

DELHI TRANSPORT INFRASTRUCTURE DEVELOPMENT CORPORATION LTD. (DTIDC) AND ORS. .....Respondents

**Advocates who appeared in this case**

| | | |
|---|---|---|
| For the Petitioner | : | Mr. Sanchit Garga, Mr. Kunal Rana, Mr. Shashwat Jaiswal and Ms. Diksha Arora, Advs. |
| For the Respondents | : | Mr Sanjay Vashishtha, Mr. Sidharthha Goswami, Ms. Jasmine Mangat and Mr. Aditya Sachdeva, Advs. for R-1.<br>Mr. Matrugupta Mishra, Ms. Sonakshi and Mr. Kushagra Kundan, Advs. for R-3. |

**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 petition has been filed under Article 226 of the Constitution of India, 1950, seeking quashing of the Notice dated

31.07.2026[1] ['impugned Notice'] issued by Respondent No. 1 cancelling the Notice Inviting Tender ['NIT'] No. 13/2026-27 dated 28.04.2026 for "Operation and Maintenance of Electromechanical Services, Housekeeping, Security and Allied Installations at Maharana Pratap ISBT, Kashmere Gate" ['subject Tender'] while assigning the reason 'Administrative Reasons'.

1.1. The said Tender was published on the government e-procurement portal, i.e., https://govtprocurement.delhi.gov.in.

**FACTUAL MATRIX**

2. The Petitioner is stated to be engaged in providing comprehensive facility management services including mechanised housekeeping, security services, operation and maintenance of electromechanical systems, and allied infrastructure services.

3. The subject Tender was called for operation and maintenance of Maharana Pratap ISBT, Kashmere Gate ['Terminal']. It is stated that pursuant to the publication of the subject Tender, the Petitioner submitted its technical bid on 14.05.2026 after depositing the prescribed EMD[2] of Rs. 46,08,222/- along with the Tender fee of Rs. 5000/-.

4. It is stated that a total of three [3] bidders participated in the said tender process including the Petitioner and Respondent No. 3.

5. It is stated that technical bids submitted by the three [3] bidders were evaluated by Respondent No. 1 during the pendency of W.P.(C) No.

[1] Bearing No. F7 (130) 2025-26/EM/DTIDC/226
[2] Earnest Money Deposit

6915/2026 and this fact is recorded in the said judgment dated 15.07.2026 at paragraph no. 3.9. It is stated that Petitioner and Respondent No. 3 scored 100% marks in the technical evaluation. It is stated that the third bidder's bid was declared technically disqualified.

6. It is stated that after dismissal of W.P.(C) No. 6915/2026, the financial bids of the Petitioner and Respondent No. 3 were evaluated. The Petitioner's financial bid was found to be the lowest, at Rs. 16,36,60,987.28p, as against Respondent No. 3's bid of Rs. 21,63,56,000.36p.

7. It is stated that the bid results were published on the website of Respondent No. 1 on 18.07.2026, pursuant to which the financial details of the bids became public knowledge and the Petitioner was declared L1 [the lowest bidder]. It is stated that the Petitioner was found to be technically qualified and was declared as the L1 bidder.

8. It is stated that, however, Respondent No. 1 inexplicably cancelled the subject Tender *vide* impugned Notice dated 31.07.2026 assigning the cause 'Administrative Reasons', without disclosing any cogent reasons.

9. It is averred that the actions of Respondent No. 1 are intended to favour Respondent No. 3, who is the incumbent contractor but has emerged as the L2 bidder.

10. It is stated that Respondent No. 1 had earlier awarded Contract Agreement[3] dated 20.12.2020 to Respondent No. 3 for operation and

[3] No. 33/EE/DTIDC/2020-21

maintenance of the Terminal for a period of three [3] years for a total amount of Rs. 51,69,83,406/-. The aforesaid contract awarded expired on 31.12.2023; however, it was extended till 31.12.2025. It is stated that after the expiry of the said contractual period, Respondent No. 3 has continued to perform the work at the Terminal on an ad-hoc basis without any subsisting contract or fresh tender having been finalised or floated.

11. It is stated that Respondent No. 1 had earlier issued NIT 76/2025-26 for the same work, which was also cancelled *vide* Corrigendum dated 13.03.2026.

12. Subsequently, on 28.04.2026, Respondent No. 1 issued the subject Tender at an estimated cost of Rs. 23,04,11,076/- for a contractual period of one year with a provision for extension of two years [maximum of one year at a time]. The last date for submission of bid was extended till 21.05.2026. Three [3] bidders participated, and these bids were evaluated and results were published on the Respondent No. 1's website on 18.07.2026, declaring the Petitioner herein as L1 bidder.

13. It is submitted that a third-party entity, which could not participate in the subject Tender, challenged the eligibility criteria, non-floating of the tender on the Government e-Marketplace ['GeM'] portal and scope of the said Tender before this Court in W.P.(C) No. 6915/2026, which was dismissed *vide* judgment dated 15.07.2026. It is stated that this Court declined to interfere in the said tender process.

14. The writ petition was listed before this Court on 05.08.2026, when Respondent No. 1, on advance notice, provided a copy of the Minutes of

the Meeting of its Board of Directors dated 24.07.2026 ['Minutes of the Meeting'] resolving to cancel the subject Tender with a direction to refloat the Tender on the GeM portal by 30.09.2026. Further, the Board of Directors resolved to direct extension of the existing contract of Respondent No. 3 for an additional two [2] months until 30.09.2026 at an estimated cost of Rs. 3,54,00,000/- inclusive of GST.

15. It is stated by the Petitioner that the cancellation of the subject Tender by the Board of Directors is without any cogent reason except to favour Respondent No. 3. It is contended that even the extension of two [2] months is given at a price higher than the price quoted by the Petitioner in its L1 bid. In these facts, the Petitioner has instituted the present petition.

16. Respondent No. 1 has provided this Court with the Financial Evaluation sheet, which records that the Petitioner's final score is 100 marks and Respondent No. 3's final score is 92.69.

**SUBMISSIONS BY THE PETITIONER**

17. Mr. Sanchit Garga, learned counsel for the Petitioner, stated that having declared the Petitioner as the successful L1 bidder with 100% score in technical as well as financial qualification, Respondent No. 1 could not have arbitrarily cancelled the subject Tender without assigning any cogent reasons.

17.1. He stated that the publication of the Petitioner's L1 bid, i.e., quoted price, followed by cancellation of the subject Tender, has irretrievably compromised the fairness and competitiveness of the procurement process. He stated that the disclosure of the Petitioner's commercially sensitive rates enables competing bidders to undercut them in any re-tender, thereby destroying the level playing field.

17.2. He stated that Respondent No. 3 has been undertaking the same work at this Terminal since August 2013 and, despite the expiry of its contract on 31.12.2025, it continues to perform the work on an ad-hoc basis without any valid contract at the previous tender rate of Rs. 17,23,27,802/- per annum, along with Index Based Price Variation of Rs. 86,66,814/- per annum and an additional average variation of Rs. 18,00,000/- per month, as against the Petitioner's lower bid for the same work, thereby causing a continuing loss to the public exchequer. He stated that Respondent No. 1 had also previously issued NIT No. 76/2025-26 for the same work, which was subsequently cancelled on 13.03.2026. He stated that the repeated cancellation of tenders and the apprehended introduction of tailor-made conditions in any fresh tender raise a serious apprehension that the tender process is made to favour Respondent No. 3 and exclude the Petitioner.

17.3. He relied upon the comparative chart price implication of the higher cost being incurred by Respondent No. 1 in continuing to avail ad-hoc services from Respondent No. 3 during the extended period from 01.08.2026 to 30.09.2026. It is stated that Respondent No. 1 is incurring a higher cost of Rs. 40,61,584.40p per month by continuing to avail services from Respondent No. 3, when compared with the bid offered by the Petitioner.

17.4. He states that the Petitioner has offered its services at a low rate of Rs. 1,36,38,415.60p per month [inclusive of GST[4]] as per the bid; however, Respondent No. 1 has elected to cancel the subject Tender and extend the contract of Respondent No. 3 until 30.09.2026, who is charging Rs. 1,77,00,000 per month [inclusive of GST].

17.5. He stated that the plea raised by Respondent No. 1 of GeM portal is a red herring. He stated that during the hearing of W.P.(C) 6915/2026, Respondent No. 1 had defended its action of not publishing the subject Tender on the GeM portal as bona fide. He contended that since the Court had refrained from interfering in the tender process on this ground, Respondent No. 1's explanation that the subject Tender was cancelled for this reason is without any basis.

17.6. He placed reliance on the judgments of the Supreme Court in **Subhod Kumar Singh Rathour v. The Chief Executive Officer**[5] and **ABL International Limited v. Export Credit Guarantee Corporation of India Limited**[6], to state that a bidder can challenge a State action on the ground of being arbitrary, unfair or unreasonable; the State would be under an obligation to comply with the basic requirements of Article 14 of the Constitution and not act in an arbitrary, unfair and unreasonable manner.

17.7. He stated that it is not necessary for a tender to be uploaded on the GeM portal. He stated that because the subject Tender had been uploaded to a government website, it remained valid. He relied upon the judgment of the Co-ordinate Bench in batch matters titled **M/s Datar Security Services**

[4] Goods and Services Tax
[5] (2024) 15 SCC 461 [Paragraph Nos. 58 and 117]
[6] (2004) 3 SCC 553 [Paragraph No. 53]

**Group v. Government of NCT of Delhi**[7]. He therefore stated that the petition should be allowed and Respondent No. 1 be directed to award the contract for a period of one [1] year in its favour.

17.8. He has handed over a copy of written submissions dated 20.08.2026, and a comparative chart of price implication.

**SUBMISSIONS BY RESPONDENT NO. 1**

18. Mr. Sanjay Vashishtha, learned counsel for Respondent No. 1, stated that the subject Tender was cancelled in pursuance of the decision taken by the Board of Directors of Respondent No. 1 on 24.07.2026. He stated that in view of the observations made by this Court in its judgment dated 15.07.2026 passed in W.P.(C) 6915/2026 vis-à-vis non-floating of the subject Tender on the GeM portal and due to the observation made by a Member of the Board that the QCBS[8] system for evaluation of bids provided in the Manual of Procurement of Works, 2025[9] had not been followed for the subject Tender.

19. He stated on oral instructions that, instead, the QCBS system provided in the Manual of Procurement, 2022 was followed.

19.1. He stated that Respondent No. 1 has made enquiries and ascertained that indeed the services which fall within the scope of the subject Tender can be floated on the GeM portal. He stated that the Board has issued time-bound instructions for floating the new tender. He stated that Respondent No. 1 has, in fact, published the new tender on the GeM portal on

[7] 2019:DHC:3505-DB [Paragraph Nos. 13 and 14]
[8] Quality and Cost-Based Selection
[9] Issued by the Government of India

20.08.2026 and will complete the process of evaluation and award of the tender on or before 10.09.2026.

19.2. He stated that Respondent No. 1 has no preference for Respondent No. 3. He submitted that after the filing of the petition, Respondent No. 1 has asked Respondent No. 3 to match the bid amount quoted by the Petitioner for rendering services during the extended period from 01.08.2026 to 30.09.2026. He stated that Respondent No. 3 has declined to match the said amount on the plea that it is not financially viable. He stated that Respondent No. 1 is willing to permit the Petitioner to provide the contractual services for a short period until a bidder is selected in pursuance of the new tender published on the GeM portal.

19.3. He stated that as per Clause 12.1 of Section 3- Instructions to the Bidders of the NIT, Respondent No. 1 has the right to reject any bid without assigning any reasons whatsoever and does not bind itself to accept the lowest or any specific bid. He stated that the decision of Respondent No. 1 in the regard is deemed final and binding.

19.4. He stated that the Petitioner, being L1 bidder, does not acquire a vested right merely by submitting the lowest bid with the highest technical score, when the subject Tender had not been awarded. In this regard, he placed reliance on the judgment of the Supreme Court in **HUDA v. Orchid Infrastructure Developers (P) Ltd**[10].

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[10] (2017) 4 SCC 243 [Paragraph No. 14]

19.5. He has handed over a copy of the Minutes of the 66th Meeting of the Board of Directors of Respondent No. 1, written submissions dated 21.08.2026, a judgment volume and Financial Evaluation sheet.

**REJOINDER SUBMISSIONS BY THE PETITIONER**

20. In response to the submission of Respondent No. 1, Mr. Sanchit Garga, learned counsel for the Petitioner states that the Petitioner is willing to take over the provision of the services from Respondent No. 3 at the Terminal with effect from 01.09.2026; however, the Petitioner requires an assured tenure of a minimum two [2] months for rendering the services.

**SUBMISSIONS BY RESPONDENT NO. 3**

21. Mr. Mishra, learned counsel appearing on behalf of Respondent No. 3, confirms that Respondent No. 3 is not willing to provide services during the extended period w.e.f. 01.08.2026 at the rates quoted by the Petitioner. He stated that Respondent No. 3 has rendered services since 2020 after emerging as the L1 bidder in the last tender, and the extension of the contract until 2025 was as per the earlier tender. He disputed any wrongdoing by Respondent No. 1 in the cancellation of the tender process or in the grant of extensions beyond 31.12.2025.

22. He clarified that Respondent No. 1 did not ask Respondent No. 3 to provide services at the rates quoted by the Petitioner prior to the writ proceedings.

23. He has handed over a copy of the written submissions dated 21.08.2026.

**COURT'S FINDINGS**

24. This Court has heard the learned counsel for the parties and perused the record.

25. The admitted facts are that the Petitioner and Respondent No. 3 participated in the subject Tender and scored 100% marks in technical evaluation. They were the only two [2] bidders, who were held to be technically eligible. Accordingly, Respondent No. 1 proceeded to open the financial bids, and the Petitioner herein emerged as the L1 bidder and Respondent No. 3 emerged as an L2 bidder. The results were published on Respondent No. 1's website on 18.07.2026.

26. In the subject Tender, Respondent No. 1 adopted the QCBS system for selection of the bidders. The said evaluation process is set out in Clauses 9, 10 and 11 of Section 3 of the subject Tender.

27. The final evaluation of both the technical and financial bids shows that the Petitioner herein scored 100 marks and Respondent No. 3 scored 92.69 marks. The relevant extract of the evaluation sheet is as under:

> "Based on the above, the combined (Technical + Financial) scores obtained by the two technically qualified bidders are worked out as under:

| S.No. | Bidder | Technical Score (out of 100) | Technical Weighted Score (out of 70) | Financial Weighted Score (out of 30) | Total Score |
|---|---|---|---|---|---|

| | | | | | |
|---|---|---|---|---|---|
| 1. | **M/s BVG India Ltd.** | 100 | 70.00 | 22.69 | 92.69 |
| 2. | **M/s Bluspring Enterprises Ltd.** | 100 | 70.00 | **30.00(Lowest)** | **100.00** |

**Working: Financial Score of M/s BVG India Ltd. = 30x 16,36,60,987/21,63,56,000 = 22.69"**

28. It was the submission of the Respondent No. 1[11] that the QCBS system of selection was consciously adopted in the subject Tender as there was an emphasis on the quality of services to be availed and lowest cost was not the criterion. It was submitted that Respondent No. 1 has consciously chosen not to adopt the Least Cost Selection ['LCS'] system for the said Tender.

29. Respondent No. 1 has relied upon the Minutes of the Meeting dated 24.07.2026 of its Board of Directors to furnish the reasons leading to the issuance of the impugned Notice cancelling the subject Tender.

## I. <u>LOCUS OF THE PETITIONER</u>

30. The first issue arising for consideration is whether the Petitioner can maintain this writ petition for challenging the decision of Respondent No. 1 dated 31.07.2026 in cancelling the subject Tender. The scope of work forming the subject matter of the Tender should be governed by the Manual for Procurement of Non-Consultancy Services (2025).

31. We find it apposite to extract the relevant paragraph of the Manual for Procurement of Non-Consultancy Services (2025):

[11] in W.P.(C) 6915/2026

"3. Only a directly affected bidder can represent in this regard:

a) Only a bidder who has participated in the concerned procurement process, i.e., prequalification, bidder registration or bidding, as the case may be, can make such representation.

b) In case the pre-qualification bid has been evaluated before the bidding of Technical/ financial bids, an application for review in relation to the technical/ financial bid may be filed only by a bidder who has qualified in the pre-qualification bid;

c) In case the technical bid has been evaluated before the opening of the financial bid, an application for review in relation to the financial bid may be filed only by a bidder whose technical bid is found to be acceptable.

d) The following decisions of the procuring entity in accordance with the provision of internal guidelines shall not be subject to review:

i) Determination of the need for procurement;

ii) Selection of the mode of procurement or tendering system;

iii) Choice of selection procedure;

iv) Complaints against specifications except under the premise that they are either vague or too specific to limit competition may be permissible.

v) Provisions limiting the participation of bidders in the procurement process in terms of government policies.

vi) Provisions regarding purchase preferences to specific categories of bidders in terms of policies of the Government

vii) The decision to enter into negotiations with the L1 bidder;

viii) <u>Cancellation of the procurement process **except** where it is intended to subsequently re-tender the same requirements</u>;

ix) Issues related to ambiguity in contract terms shall not be taken up after a contract has been signed; all such issues should be highlighted before the vendor/contractor consummates the contract."

[Emphasis supplied]

32. The locus of the Petitioner, having emerged as the eligible lowest bidder, to challenge the cancellation of the subject Tender is duly recognised under paragraph no. 3.5.3(d)(viii) of the Manual for Procurement of Non-Consultancy Services, 2025. There is no dispute that Respondent No. 1 intends to re-tender with the same requirements. The Petitioner herein is therefore entitled to seek review of the reasons which led Respondent No. 1 to cancel the subject Tender and re-tender with the same requirements.

33. The impugned Notice issued by Respondent No. 1 for cancellation merely states 'Administrative Reasons'. Since Respondent No. 1 has apprised the Court that it intends to re-tender with the same requirements, this Court is liable to review the said reasons in terms of paragraph no. 3.5.3(d)(viii) of the aforesaid Manual.

**II. EVALUATION OF THE REASONS FURNISHED BY RESPONDENT NO. 1 FOR CANCELLING THE SUBJECT TENDER**

34. It is stated that the final evaluation results of the subject Tender were placed before the Board of Respondent No. 1, in compliance with the direction issued by this Court in its judgment dated 15.07.2026 in W.P. (C) 6915/2026 at paragraph no. 18. The reasons for cancelling the subject Tender are recorded in the said Minutes of the Meeting, at paragraph nos. 3 to 7. The same read as under: -

> "**3. Judgment of the Hon'ble High Court**
>
> After hearing all the parties, the Hon'ble Division Bench, vide judgment dated 15.07.2026, dismissed the writ petition and upheld the tender conditions and the tendering process adopted by DTIDC. The Court accepted DTIDC's justification that the integrated tender for multiple

services was based on operational requirements, and held that adoption of the QCBS methodology was permissible.

4. However, in Para 15 of the judgment, **the Hon'ble Court expressed reservations regarding the non-publication of the tender on the GeM Portal**, noting that it was not satisfied with the counter-affidavit filed by DTIDC in this regard. Accordingly, the Hon'ble Court directed the Board to ensure that the best bid is accepted, keeping in view the security and comfort of users at the terminal, as well as the cost to the public exchequer. It was noted that the contract would be awarded subject to the approval of the Board.

5. M/s Bluspring Enterprises Limited emerged as the L1 (lowest) bidder. having quoted a rate **28.97% below the Estimated** Cost put to Tender (ECT), amounting to Rs. 16,36,60,987/- as against the ECPT of Rs. 23,04,11,076/-.

6. The Special Secretary (Finance)/Member of the Board observed that the latest Manual of Procurement issued by the Government of India has not been followed during the QCBS based tendering process. The Board agreed to the same and further also agreed with the observation of Hon'ble court regarding floating of tender on GeM Portal.

7. In view of the above facts and observations, it was decided that the present tender may be cancelled and fresh tender may be floated following Manual of Procurement, 2025 and on the GeM Portal."

35. In the written submissions, Respondent No. 1 has paraphrased the reasons for cancellation of the subject Tender as under: -

***"Based on the 66th Board Meeting minutes of DTIDC***, these are the reasons explaining why the earlier tender (NIT No. 13/2026-27) was cancelled:

**Alignment with High Court Observations on GeM Portal**: The Hon'ble Delhi High Court (in Gorkha Security Services v. DTIDC) expressed dissatisfaction regarding non-publication of the tender on the Government e-Marketplace (GeM) Portal, leading the Board to cancel the process to migrate the procurement to GeM.

**Adoption of Mandatory Procurement Guidelines (LCS over QCBS):** The Board observed that the previous tender utilized Quality-cum-Cost Based Selection (QCBS) without following the latest Manual for Procurement of Works, 2025. Since 88% of the work involves routine manpower deployment, statutory guidelines mandate Least Cost Selection (LCS) as the default mode to ensure maximum economy and transparency for the public exchequer. **(Para 3.1,3.2 of 66th Board Meeting minutes of DTIDC)"**

[Emphasis supplied]

36. It was contended during arguments that the **first reason** is deference to the observations made by the Court in its judgment dated 15.07.2026 in W.P. (C) 6915/2026 at paragraph no. 15.

37. We find no merit in the said reason.

38. Prior to the present writ petition, a third-party challenged the qualification criteria of the subject Tender in W.P.(C) 6915/2026. In that writ petition, the petitioner therein had inter alia questioned Respondent No. 1's decision to not publish the subject Tender on GeM portal and sought its quashing on this ground, as well. The said petitioner had contended that non-publishing of the subject Tender on the GeM portal was in violation of the General Financial Rules, 2017; it had resulted in restricted participation as well as inclusion of unreasonable eligibility terms which, in effect, were exclusionary. Respondent No. 1 in the said petition, had vehemently defended its decision of not floating the subject Tender on the GeM portal by stating that it was impermissible.

The said writ petition was dismissed *vide* judgment dated 15.07.2026. This Court declined to quash the subject Tender at the behest of the third-party who was ineligible; however, it observed that the justification given by Respondent No. 1 for not publishing the subject Tender on the GeM portal was not satisfactory. However, despite making this observation, this Court did not deem it fit to quash the subject Tender on this ground; instead, this Court sought to address the issue of impartial selection between the eligible bidders by directing that the final decision to select and accept the bid of the qualified bidder should be placed before the Board of Directors. This was a safeguard to ensure the Board's supervision in the selection of the final bidder, so as to obviate the allegations of bias in favour of Respondent No .3. This direction in the said judgment was in no manner intended to provide a reason or cause to Respondent No. 1 to cancel the subject Tender. If the Court had intended otherwise, it would have quashed the subject Tender itself.

39. The miracle, which has led to Respondent No. 1 concluding between 15.07.2026 [i.e., the date of the judgment] and 24.07.2026 [i.e., the date of the Minutes of the Meeting] that the scope of work of the subject Tender can be published on the GeM portal, is not forthcoming. This reason for cancelling the subject Tender is therefore illusory. We make this observation keeping in view the vehemence with which Respondent No. 1 had defended the publishing of the subject Tender in W.P. (C) 6915/2026.

40. The **second reason** contended by the Respondent No. 1 was that one Member of the Board, i.e., Special Secretary [Finance], observed that the latest Manual of Procurement has not been followed during the QCBS based tendering process. This submission is based on paragraph no. 6 of the Minutes of the Meeting, which read as under: -

> "6. The Special Secretary (Finance)/Member of the Board observed that the latest Manual of Procurement issued by the Government of India has not been followed during the QCBS based tendering process. The Board agreed to the same and further also agreed with the observation of Hon'ble Court regarding floating of tender on GeM portal."

41. This reason has been pleaded by Respondent No. 1 at page no. 7 of its written submissions, to explain as follows: -

***"Based on the 66th Board Meeting minutes of DTIDC***, these are the reasons explaining why the earlier tender (NIT No. 13/2026-27) was cancelled:

…..

**Adoption of Mandatory Procurement Guidelines (LCS over QCBS):** The Board observed that the previous tender utilized Quality-cum-Cost Based Selection (QCBS) without following the latest Manual for Procurement of Works, 2025. Since 88% of the work involves routine manpower deployment, statutory guidelines mandate Least Cost Selection (LCS) as the default mode to ensure maximum economy and transparency for the public exchequer. **(Para 3.1,3.2 of 66th Board Meeting minutes of DTIDC)"**

42. The aforesaid pleaded explanation in the written submissions does not match with the submission of the Member recorded in the said Meeting. In fact, the written submissions are inconsistent with the record of the said Meeting.

43. The written submissions appear to state that adoption of QCBS system-based tendering in the subject Tender was contrary to the Manual of Procurement of Works, 2025. It suggests that LCS mode ought to have been preferred over QCBS in the subject Tender.

44. To the contrary, while addressing arguments in W.P. (C) 6915/2026, when the petitioner therein had challenged the QCBS system adopted at Clauses 9, 10 and 11 of the subject Tender; Respondent No. 1 during arguments had vehemently justified the adoption of the QCBS system as recorded at paragraph no. 3.5 therein[12]. Respondent No. 1 had contended

[12] 3.5. He stated that the methodology adopted, namely Quality and Cost Based Selection ['QCBS'], is permissible under Rule 192 of GFR, which also illustratively contemplates a 70:30 ratio between technical and financial evaluation. He stated that the adoption of the QCBS methodology is intended to strike a balance between technical competence and financial competitiveness, ensuring that the successful bidder offers the best overall value rather than merely the lowest price. He stated that the Respondent has consciously preferred quality plus price over a purely price-driven selection process, considering the specialised and expansive nature of the services involved at the Terminal.

that the QCBS system had been consciously selected as Respondent No. 1 wanted to ensure quality of deliverables and not concentrate only on the lowest price. In other words, Respondent No. 1 had taken a categorical stand that it had consciously elected not to adopt the LCS method.

45. Thus, the reason set out in the written submissions that Respondent No. 1 failed to follow the LCS method for the subject Tender appears to be a flip-flop. We are also not sure that this was the intention of the Member who raised the objection or made the observation vis-à-vis QCBS on 24.07.2026.

46. The subject Tender as per Clauses 9, 10 and 11 in Section 3 prescribes the QCBS system and the Petitioner herein has scored 100% marks in the financial evaluation and technical evaluation. Thus, considering that Petitioner herein had passed muster under the QCBS system, award of contract in its favour would have been reasonable and logical.

47. In view of the aforesaid discussions, the second reason given by the Respondent No. 1 for cancelling the subject Tender fails to stand the test of reasonableness.

**III. LOSS TO THE PUBLIC EXCHEQUER**

48. The Board of Directors, while deciding to cancel the subject Tender, also resolved to extend the contract of the incumbent contractor, i.e. Respondent No. 3, for a period of two [2] months; however, at a monthly price which is higher than the price quoted by the Petitioner for the subject Tender. The Petitioner had quoted a price of Rs. 1,36,38,415.60p as per

month. The Respondent No. 3 has been permitted to work for the extended period at a price of Rs. 1,77,00,000/- per month. Respondent No. 3 has stated that the Respondent No. 1 did not even ask Respondent No. 3 to match the price offered by the Petitioner. Respondent No. 3 has stated, before this Court, that it is not willing to match this price as it is unfeasible for the said Respondent.

49. Respondent No. 1 has, however, submitted before this Court that it is willing to permit the Petitioner to render services as an interim measure until the new tender process published in pursuance of the decision taken by the Board on 24.07.2026 is completed and a new bidder is selected. In its oral arguments, it is stated that Respondent No. 1 acknowledges that continuing to accept the services of Respondent No. 3 is causing loss to the public exchequer.

50. In our considered opinion, the action of Respondent No. 1 in extending the term of Respondent No. 3 at a monthly price higher than the monthly bid price offered by the Petitioner, as determined through the subject Tender, is wholly inexplicable. The Petitioner not only scored 100 marks for technical evaluation but also scored 100 marks for financial evaluation. It is difficult for this Court to reconcile the multiple inconsistent stands taken by Respondent No. 1 for not acting upon the L1 offer of the Petitioner as per the QCBS system. In fact, the Manual for Procurement of Non-Consultancy Services (2025) at paragraph no. 7.4.11(2) contemplates that where responsive bids are available, the aim should be to finalise the tender and not cancel it. The said paragraph reads as under: -

**"7.4.11. Cancellation of Procurement Process/ Rejection of All Bids/Retender (Rule 173 (xix) of GFR 2017)**

1. The Procuring Entity has the right to cancel the process of procurement or reject all bids at any time before intimating acceptance of successful bid under circumstances mentioned below. However, such rejections should be well considered and normally be in cases where all the bids are either substantially in deviation to the Services and Activities Schedule or considered unreasonably high in cost and, if in the latter case, the lowest qualified bidder during negotiations fails to reduce the costs to a reasonable level. If it is decided to re- invite the bids, the Services and Activities Schedule should be critically reviewed/modified so as to address the reasons of not receiving any acceptable bid in the earlier Invitation for bids. The Procuring Entity may cancel the process of procurement or rejecting all bids under circumstances mentioned below:

a) If the quantity and quality of requirements have changed substantially or there is an un-rectifiable infirmity in the tender process;

b) when none of the tenders is substantially responsive to the requirements of the Procurement Documents;

c) none of the technical Proposals meets the minimum technical qualifying score;

d) If effective competition is lacking. However, lack of competition shall not be determined solely based on the number of Bidders. (Please refer to para 7.2.7 above also regarding receipt of a single offer).

e) the Bids'/Proposals' prices are substantially higher than the updated cost estimate or available budget;

f) If the bidder, whose bid has been found to be the lowest evaluated bid (L1) or Highest scorer (H-1) withdraws or whose bid has been accepted, fails to sign the procurement contract as may be required, or fails to provide the security as may be required for the performance of the contract (Para 7.5.3) or otherwise withdraws from the procurement process (para 7.2.6), the Procuring Entity shall deal the case as per para 7.2.6-3).[77].

2. <u>In case where responsive bids are available, the aim should be to finalise the tender by taking mitigating measures even in the conditions described below</u>. If it is decided to rebid the tender, the justification should balance the perceived risks in finalisation of tender (marginally higher rates) against the certainty of resultant delays, cost escalations, loss of transparency in re-invited tender. It may be noted that once a Tender is retendered, the bids in the old tender cannot be revived and reconsidered, as per the Indian Contract Act, even if prices received in the new tender turn out to be higher.

3. Approval for re-tendering should be accorded by the CA based on the reasons/proper justification in writing. The decision of the procuring entity to cancel the procurement shall be immediately communicated to all bidders that participated in the procurement process and bids if not opened would not be opened and in case of manual tenders be returned unopened. Bid securities, if any, should also be returned without delay.

4. Before retendering, the procuring entity should first check whether, while floating/issuing the enquiry, all necessary requirements, and formalities such as standard conditions, industry friendly qualification criteria, and technical and commercial terms, wide publicity, sufficient time for tendering, and so on, were fulfilled. If not, a fresh enquiry should be issued only after rectifying the deficiencies."

[Emphasis supplied]

51. In our considered opinion, considering the fact that the Petitioner had emerged as the L1 bidder with 100% marks in technical and financial evaluation based on the QCBS system set out in the subject Tender, the Respondent No. 1's Board as on 24.07.2026 had no good grounds for cancelling the subject Tender.

52. The reliance placed by the Respondent No. 1 on Clause 12.1 of Section 3 of the subject Tender is of no avail. Respondent No. 1 has relied upon the reasons recorded in the Minutes of the Meeting to justify the cancellation of the subject Tender. The said Minutes of the Meeting have to

be read in conjunction with paragraph no. 7.4.11 of the Manual for Procurement of Non-Consultancy Services, 2025, which binds Respondent No .1. The reasons recorded in the said Minutes do not fall within the circumstances set out at paragraph no. 7.4.11(1). Instead in view of the fact that the bid of the Petitioner and Respondent No. 3 was responsive, Respondent No. 1 ought to have proceeded with the subject Tender as per paragraph no. 7.4.11(2).

53. Also, the Board in its Minutes of the Meeting dated 24.07.2026 had decided to refloat the tender and complete the process within a period of two [2] months. However, when the matter was first listed on 05.08.2026, admittedly until then no steps had been taken by Respondent No. 1 between 24.07.2026 and 05.08.2026 to publish the new tender on the GeM portal.

54. The matter was listed before this Court on 11.08.2026, 14.08.2026, 17.08.2026. The matter was posted for final hearing and disposal on 21.08.2026, with notice to all the parties. The relief (a) sought in the present petition was for quashing of the impugned Notice dated 31.07.2026 whereby Respondent No. 1 had cancelled the subject Tender and relief (b) sought award of the contract in its favour pursuant to the subject Tender. However, Respondent No. 1 apprised the Court on 21.08.2026 that a new tender has been published on the GeM portal on 20.08.2026. No leave was sought from the Court before publishing the new tender. In our considered opinion, this action of Respondent No. 1 is an overreach of the reliefs sought in the writ proceedings.

55. The facts in this petition and the findings on the controversy can be summed up as under: -

i. The subject Tender was floated using the QCBS system for selecting a quality service provider with the best cost offer. The subject Tender was floated on the GNCTD e-portal and not the GeM portal.

ii. Respondent No. 1 vehemently defended its action of floating the subject Tender on the GNCTD e-portal and use of the QCBS system in W.P. (C) 6915/2026.

iii. This Court *vide* judgment dated 15.07.2026 dismissed W.P. (C) 6915/2026. The Court found the explanation offered by Respondent No. 1 for not publishing the subject Tender on the GeM portal unsatisfactory. However, the Court did not deem it fit to quash the subject Tender on this ground and directed the Board of Directors of Respondent No. 1 to supervise the selection of the final bidder. The Court did not express any opinion whatsoever on the use of the QCBS system in the subject Tender.

iv. The bids of the Petitioner and Respondent No. 3 were evaluated as per the QCBS system.

v. The Petitioner scored 100 marks in technical evaluation and financial evaluation as per the QCBS system. The Petitioner emerged as the H1/L1 bidder.

vi. Respondent No. 3, the incumbent contractor, scored 92.69 marks in technical evaluation and financial evaluation as per the QCBS system and emerged as the L2 bidder.

vii. The Petitioner's bid was the lowest. It would have been L1 even if the LCS method had been applied to the subject Tender.

viii. The Evaluation result was placed before the Board of Directors on 24.07.2026 for award of work to the Petitioner herein on 24.07.2026 in view of our direction at paragraph nos. 15 and 18 in W.P. (C) 6915/2026.

ix. The Board of Directors, on 24.07.2026, however, by referring to the said judgment and an observation made by its member with respect to non-following of the latest manual for QCBS system, issued directions for cancellation of the subject Tender. We have examined the said reasons in the above paragraphs and found the same to be invalid as well as inconsistent with the stand taken by Respondent No. 1 before the Court in W.P. (C) 6915/2026. The cancellation of the subject Tender is thus without any just reasons.

x. The Board in its resolution dated 24.07.2026 issued directions for further ad-hoc extension of the contract of the existing contractor, i.e., Respondent No. 3, at a price of Rs. 1,77,00,000/- per month, which is higher than the price of Rs. 1,36,38,415.60p per month offered by the Petitioner.

xi. Respondent No. 3 was not even asked by Respondent No. 1 to match the monthly price offered by the Petitioner for the extended period.

xii. During pendency of the petition, Respondent No. 1 called upon Respondent No. 3 to match the monthly price offered by the Petitioner for the extended period. Respondent No. 3 has expressed its inability to offer services at the monthly price quoted by the Petitioner.

xiii. Respondent No. 1 has, without taking leave of the Court, published a new tender on 20.08.2026 on the GeM portal for the same services.

56. The manner in which Respondent No. 1 has conducted itself in W.P. (C) 6915/2026, its actions after the judgment dated 15.07.2026 and in these writ proceedings, shows lack of diligence.

57. Respondent No. 3, the incumbent contractor, has been uninterruptedly rendering services since 2013 at the Terminal. Respondent No. 3 was selected again in 2020 in pursuance of a new tender and awarded a contract for three [3] years. The said contract was extended for two further years, which expired on 31.12.2025. Thereafter, Respondent No. 3 has been provided service on ad-hoc extensions, with the latest extension in pursuance of the Minutes of the Meeting. This fact has led to allegations of bias against Respondent No. 1, alleging that the subject Tender has been cancelled as Respondent No. 3 has not emerged as the L1 bidder. We have also noted that Respondent No. 1 has been unable to explain its action of extending Respondent No. 3's contract w.e.f. 01.08.2026 at a monthly price which is higher than the price offered by the Petitioner. The contract of Respondent No. 3 expired on 31.12.2025, and the subject Tender is a second tender cancelled by Respondent No. 1, leading to loss to the public exchequer and questioning the transparency in continuing with the incumbent contractor on an ad-hoc basis.

58. Respondent No. 1 has stated that it has no objection to accept the Petitioner's services until the new bidder is selected. It has stated that the Petitioner can take over services with immediate effect. Respondent No. 3 has clarified that it has no vested right in the extension and is unwilling to offer services for the extended period, at the monthly price offered by the Petitioner. The Petitioner has expressed willingness to take over from

Respondent No. 3 and provide service at the quoted monthly price. It is, however, stated that it requires a minimum contract period of two [2] months.

59. Despite our finding that the explanation given by Respondent No. 1 for cancelling the subject Tender on 24.07.2026 lacks any clear rationale, we are refraining from setting aside the impugned decision of cancellation as we find that the manner and process adopted by Respondent No. 1 in floating the subject Tender has been irregular and inconsistent with the applicable General Financial Rules, 2017. The non-floating of the subject Tender on the GeM portal, and a limited participation of two [2] qualified bidders, are concerns which weigh with us in refraining from interfering.

60. We are, however, of the considered opinion that continuation of Respondent No. 3 as a service provider at the quoted price of Rs. 1,77,00,000/- per month, when the Petitioner, who has been found to be 100% technically and financially qualified, is willing to provide services at quoted price of Rs. 1,36,38,415.60p per month, is indeed causing loss to the public exchequer. The Petitioner has offered to provide services for a minimum period of two months at the quoted price of Rs. 1,36,38,415.60p per month. Respondent No. 1 has stated that it is willing to accept the services of the Petitioner until the final bidder is selected in pursuance of the new tender.

61. We accordingly direct the Respondent No. 1 to act on its statement made before this Court and award the contract to the Petitioner at the quoted price of Rs. 1,36,38,415.60p per month for a minimum period of two [2] months or until the final bidder is selected in pursuance of the new tender

dated 20.08.2026, whichever is later. The Petitioner will take over the services from Respondent Nos. 1 and 3 w.e.f. 01.09.2026. Respondent No. 3 is directed to assist and cooperate with Respondent No. 1 in a smooth handover to the Petitioner.

62. Respondent No. 1 is at liberty to proceed with the Tender published on 20.08.2026 on the GeM portal and complete the said process.

63. The writ petition is allowed to this limited extent, in aforesaid terms. The prayer (a) for quashing the impugned Notice dated 31.07.2026 is declined. Pending applications disposed of.

64. The Court Master is directed to take on record the documents handed over by the parties during the Court proceedings.

**MANMEET PRITAM SINGH ARORA, J**

**V. KAMESWAR RAO, J**

**AUGUST 25, 2026**/aa/mt