

Anil Kumar Hajelay & Ors. vs Honble High Court Of Delhi on 13 August, 2024

Author: Tushar Rao Gedela

Bench: Tushar Rao Gedela

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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 2018/2021

ANIL KUMAR HAJELAY & ORS.

Through: Petitioner no.1 in p

versus

HONBLE HIGH COURT OF DELHI

.....Resp

Through: Dr.Amit George with Mr.Arkan

Bhaumik, Mr.Adhishwar Suri,

Ms.Superna Jain, Mr.Dushyant

Ms.Ibansara and Ms.Rupam Jain

Advocates for R-1.

Mr.Anuj Aggarwal, ASC, GNCTD

with Mr.Yash Upadhyay and

Mr.Siddhant Dutt, Advocates f

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Date of Decision:

CORAM:

HON'BLE THE ACTING CHIEF JUSTICE

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

JUDGMENT

MANMOHAN, ACJ : (ORAL)

1. Present application has been filed by the respondent/Government of National Capital Territory of Delhi (GNCTD) seeking modification in paragraph 9 of the order dated 18th July 2024 passed by this Court.

2. Learned Counsel for the GNCTD states that the overall project involves an expenditure exceeding Rs. 100 crore which as per prevailing financial rules requires administrative approval from the Expenditure Finance Committee and as such prays that the term "financial sanction" in the order dated 18th July 2024 requires to be replaced with "administrative sanction".

3. He further states that instead of floating a comprehensive tender for all 691 Courts in one go including the 14 Pilot Courts, as directed in the order dated 18th July, 2024, at present permission be granted to the GNCTD to float tenders/NIT with respect to only 14 Pilot Courts with a stipulation that only bidders with technical and financial competence/qualification for executing work in all 691

Courts would be eligible to participate.

4. Learned counsel for the GNCTD further contends that if the entire project is floated with certain ICT specification, then it would be difficult to revise the specification later on, if such need arises after the testing of the 14 Pilot Courts.

5. Having heard learned counsel for the GNCTD, this Court considers that the modification sought with respect to the replacement of the term "financial sanction" with "administrative sanction" alone is not appropriate. What is necessary and in accordance with the applicable financial rules is replacement of the said term with "administrative and financial sanction and all other necessary sanctions/approvals".

6. However, the request to limit the tenders/NIT to 14 Pilot Courts, while placing eligibility conditions on the prospective bidders related to their financial competence/qualification for executing work in all 691 Courts would potentially lead to complications and delay in implementation of the project. This would also result in undermining the comprehensive and timely execution of the project as initially envisioned.

7. It is pertinent to mention that adequate infrastructure in Delhi District Courts for hybrid hearing is the need of the hour especially in light of the enactment and enforcement of the new Criminal laws. Section 105 of Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023 stipulates that the process of conducting search of a place or taking possession of any property or preparation of list of things seized and signing of such list by witnesses shall be recorded through audio-video electronic means and the police officer shall without delay forward such recording to the Judicial Magistrate. Consequently, this Court declines the latter part of the GNCTD request and directs the Chief Secretary, GNCTD to expeditiously proceed with the matter regarding grant of "administrative and financial sanction with all other necessary sanctions/approvals" in respect of all the 691 Courts as stated in the preliminary estimate dated 19th April 2024 for a sum of Rs.387,03,19,388/- as per the configuration approved by the NIC and to implement the entire project on priority basis. It is again clarified that a comprehensive tender for all the 691 Courts, including 14 Pilot Courts, shall be floated.

8. Therefore, the request to modify paragraph 9 of the order dated 18th July, 2024 is partly allowed and paragraph 9 of the order dated 18th July, 2024 shall now read as under:-

"9. Consequently, this Court directs the Chief Secretary, GNCTD to simultaneously proceed with and expedite the matter regarding grant of administrative and financial sanction and all other necessary sanctions/approvals in respect of all the 691 Courts as stated in the preliminary estimate dated 19th April 2024 for a sum of Rs.387,03,19,388/- as per the configuration approved by NIC and to implement the entire project on priority basis. It is clarified that a comprehensive tender for all the 691 Courts, including pilot courts, shall be floated."

9. It is further directed that the comprehensive tender for all 691 Courts shall be floated with a stipulation/condition in the NIT that successful bidder shall initially set up 14 hybrid courts on Pilot

basis as per the specification/configuration approved by the NIC within a period of one month from the date of the award and on getting approval from the competent authorities, which in all probability shall be granted within a period of three months from the date of setting of the aforesaid Pilot Courts, the successful bidder shall proceed to set up the remaining hybrid courts with suggestive necessary changes/modification, if any received from the competent authority.

10. Accordingly, the order dated 18th July, 2024 stands modified only to the extent mentioned hereinabove and the present application stands disposed of in terms of the aforesaid directions.

ACTING CHIEF JUSTICE TUSHAR RAO GEDELA, J AUGUST 13, 2024 KA