

Anil Kumar Hajelay & Ors. v. Hon'ble High Court of Delhi,

Urgency of Integration of Section 105 BNSS

Date of Order: August 13, 2024
Case Law No: GIB-DHC-2024-01
Source: GST INDIA Biz (www.gstindia.biz)

CASE DESCRIPTION / SUMMARY

Facts of the Case

The present proceedings arose out of an application filed by the Government of National Capital Territory of Delhi (GNCTD) seeking modification of paragraph 9 of an earlier order dated 18 July 2024 passed by the High Court. The earlier order had directed the Chief Secretary, GNCTD, to proceed with grant of "financial sanction" and to float a comprehensive tender for establishing hybrid court infrastructure in all 691 courts, including 14 pilot courts.

The GNCTD submitted that the overall project involved expenditure exceeding Rs. 100 crore and, as per prevailing financial rules, required approval from the Expenditure Finance Committee. It was therefore requested that the expression "financial sanction" be replaced with "administrative sanction." The GNCTD further sought permission to float tenders initially only for 14 pilot courts instead of all 691 courts, with eligibility conditions requiring bidders to have technical and financial competence to execute the entire project. It was also contended that floating a comprehensive tender at once might make it difficult to revise ICT specifications after testing the pilot courts.

The matter thus came before the Court to determine:

1. Whether paragraph 9 of the earlier order required modification regarding the nature of sanction.
2. Whether the tender process should be limited to 14 pilot courts at the initial stage.

Court Observations and Decision

The Court held that mere substitution of the term "financial sanction" with "administrative sanction" was not appropriate. Instead, it directed that the expression be replaced with "administrative and financial sanction and all other necessary sanctions/approvals," in accordance with applicable financial rules.

On the request to limit the tender process to 14 pilot courts, the Court rejected the proposal. It observed that restricting the tender to pilot courts while imposing eligibility conditions related to all 691 courts could lead to complications and delay, thereby undermining comprehensive and timely execution of the project.

The Court emphasized the urgent need for adequate hybrid court infrastructure in Delhi District Courts, particularly in light of the enactment and enforcement of new criminal laws, including Section 105 of the Bharatiya Nagarik Suraksha Sanhita, 2023, which mandates audio-video recording of certain procedural acts. It held that expeditious implementation of infrastructure was essential.

Accordingly, the Court directed the Chief Secretary, GNCTD, to proceed simultaneously and expedite the grant of administrative and financial sanction and all other necessary approvals for all 691 courts, as per the preliminary estimate dated 19 April 2024 amounting to Rs. 387,03,19,388/-, based on the configuration approved by the National Informatics Centre (NIC).

The Court further directed that a comprehensive tender for all 691 courts, including 14 pilot courts, shall be floated. It clarified that the successful bidder must initially set up 14 hybrid courts on a pilot basis within one month from the date of award, and after approval by competent authorities, proceed with setting up the remaining courts with necessary modifications, if any.

ADDITIONAL FOOTNOTES

Final Order:

The application for modification was partly allowed. Paragraph 9 of the earlier order was modified to require grant of "administrative and financial sanction and all other necessary sanctions/approvals." The direction to float a comprehensive tender for all 691 courts, including pilot courts, was maintained. The application was disposed of in terms of these directions.