

**BEFORE THE HONOURABLE NATIONAL GREEN TRIBUNAL,  
PRINCIPAL BENCH AT NEW DELHI  
Original Application No 77 / 2016**

IN THE MATTER OF:

M/s Ashok Vihar Mitra Mandel .....Applicant

Versus

The Govt. of NCT of Delhi & Ors. ....Respondent

**INDEX**

<b>S.No</b>	<b>Particulars</b>	<b>Page Nos.</b>
1	Report on behalf of the Govt. of NCT of Delhi.	1 to 5
2.	<b>Annexure 'A'</b> : Copy of the Hon'ble NGT order dated 30.03.2019	6 to 7
3.	<b>Annexure 'B'</b> : Copy of the Affidavit dated 28.07.2015	8 to 10
4.	<b>Annexure 'C'</b> : Copy of the approval of the Cabinet and Hon'ble Lt. Governor dated 19.09.2017	11 to 13
5	<b>Annexure 'D'</b> : Copy of the recommendations of DPCC and Deptt. of Environment, GNCTD dated 04.12.2017	14
6	<b>Annexure 'E'</b> : Copy of the Approval of the Cabinet dated 21.06.2018	15 to 26
7	<b>Annexure 'F'</b> : Copy of the decision of BOD of DSIIDC dated 19.12.2018	27
8	<b>Annexure 'G'</b> : Copy of the order of Hon'ble High Court, WP(C) 765/2019 dated 23.01.2019	28 to 29

1

**BEFORE THE HONOURABLE NATIONAL GREEN TRIBUNAL,  
PRINCIPAL BENCH AT NEW DELHI  
Original Application No 77 / 2016**

IN THE MATTER OF:

M/s Ashok Vihar Mitra Mandel .....Applicant

Versus

The Govt. of NCT of Delhi & Ors. ....Respondent

**REPORT OF GOVERNMENT OF NCT OF DELHI IN COMPLIANCE TO  
ORDER DATED 15.10.2019.**

1. That this Hon`ble Tribunal in above referred matter vide its order dated 15.10.2019 ordered as follows :

*"... Grievance in this application is that hazardous waste site required to be established under the provisions of Hazardous Waste (Management, Handling and Transboundary Movement) Rules, 2016 as well as in terms of orders of this Tribunal dated 18.07.2019 and observations in the orders dated 01.10.2014 and 23.07.2015 in O.A. No. 305/2013, Balam Singh Rawat vs. Government of N.C.T. Delhi & Ors. and orders dated 30.07.2018 and 12.04.2019 in O.A. No. 804/2017, Rajeev Narayan & Anr. vs. Union of India & Ors.*

*Before we consider the matter further, we find it necessary to require a factual report in the matter from the Chief Secretary, Delhi within one month by e-mail at [judicial-ngt@gov.in](mailto:judicial-ngt@gov.in).*

*A copy of this order be sent to the Chief Secretary, Delhi by e-mail for compliance..."*

*List for further consideration on 19.11.2019."*



2. That during the course of hearing on 30.03.2015 in the matter entitled, "Balam Singh Rawat vs Govt. of NCT of Delhi & Ors " in O.A. No. 305/2013, North Delhi Municipal Corporation (North DMC) informed the Hon'ble National Green Tribunal that they are prepared to hand over 14 acres of land for dealing with the Hazardous Waste in Bawana, NCT, Delhi. However, the project is to be developed by the DSIIDC in collaboration with the DPCC. Copy of the order is annexed as **Annexure - 'A'**.
3. That on 15.04.2015, Hon'ble Tribunal directed DSIIDC to submit an action plan. Accordingly, an action plan was submitted through an affidavit filed by the Managing Director of DSIIDC before the Hon'ble Tribunal on 28.07.2015 stating that the project shall be completed within a span of 25 and half months. Copy of the affidavit is annexed as **Annexure - 'B'**.
4. That DSIIDC hired the services of M/s Arcadis India Pvt. Ltd at a cost of Rs 41.7 Lacs on 17.08.2015 for consultancy services for the project. After collection of data from DPCC, field and from other sources, consultant examined the various options and suggested to develop the facility on PPP basis on the lines of Build, Operate and Transfer (BOT) Model for a period of 25 years. Subsequently the meeting convened with the Department of Environment, Department of Industries, DSIIDC etc and it was felt appropriate that the above model with 50% grant in aid in capital cost shall be most appropriate and feasible model.
5. That from the Air Ambience Fund , DPCC has made a payment of Rs. 44.10 Crore to North DMC on account of cost of land for setting up of TSDF at Bawana and an amount of Rs. 8.05 Crore has been given to DSIIDC as grant in aid towards 50 % of Capital cost of TSDF. North DMC handed over 14 acres of land out of Bawana SLF site to Department of Environment, Govt. of NCT of Delhi on 13.05.2015 which was further handed over by the Department of Environment, Govt. of NCT of Delhi to DSIIDC on 13.05.2015 for the purpose of setting up of TSDF for disposal of hazardous waste of Delhi.



6. That on 17.05.2016, it was decided by the Govt. of NCT of Delhi that a cabinet proposal for setting up of TSDF should be moved through the Industries Department, Govt. of NCT of Delhi for seeking approval from the Delhi Cabinet. Accordingly, after incorporating the comments of Finance / Planning, Law and Environment Departments of Govt. of NCT of Delhi, the proposal for development of TSDF was moved by the Industries Department for the approval of Cabinet of Delhi. The Cabinet of Delhi and Hon'ble Lt. Governor approved the following proposal on 19.09.2017 and Copy of the same is annexed as **Annexure - 'C'**.
- a. To develop the TSDF for hazardous waste at Bawana in Delhi on PPP basis on the lines of Build, Operate and Transfer Model (BOT) with a concession contract for 25 years in the land situated at Bawana.
  - b. To sanction grant in aid towards 50% of the Capital Cost to the project amounting to Rs 8.05 crore (without incineration facility) for setting up of TSDF for transport, storage, treatment and disposal of hazardous waste at Bawana, Delhi.
7. That the above proposal of development of TSDF as approved by Delhi Cabinet was without incinerator as DPCC had authorized two TSDF operators having facility at Kanpur Dehat in Uttar Pradesh for the treatment of incinerable waste of Delhi.
8. That after the approval, DSIIDC initiated the process of inviting Request for Proposal (RFP) for the development of TSDF. Meanwhile, a meeting was convened by the Hon'ble Minister of Environment, Govt. of NCT of Delhi on 23.11.2017 to discuss the above proposal wherein it was decided that the TSDF should be developed with incinerator facility and a revised proposal should be prepared. In view of the recommendations of Delhi Pollution Control Committee and Department of Environment, Govt. of NCT of Delhi (Copy of the letter dated 04.12.2017 of Special Secretary (Environment) -Cum- Member Secretary, DPCC is annexed as **Annexure - 'D'**) the proposal was revised after incorporating the element of incinerator.



The following revised proposal for the development of TSDF with incinerator was approved by the Cabinet of Delhi on 21.06.2018 :

- a) To develop the TSDF with incinerator for disposal of hazardous waste of Delhi on PPP basis on the lines of Build, Operate and Transfer (BOT) Model with a concession contract for 25 years on 14 acres land situated at Bawana, in Delhi. The facility will also provide for Treatment and Storage of domestic hazardous waste as per the provisions of the Solid Waste Management Rules, 2016.
  - b) To sanction additional grant in aid to be released by DPCC from the Air Ambience Fund upto Rs 1.95 Crores towards 50% of the Capital Cost of the project for setting up of TSDF (with incineration facility) for transport, storage, treatment and disposal of hazardous waste of Delhi at Bawana, Delhi. Copy of the approval of Delhi Cabinet dated 21.06.2018 is annexed as **Annexure - 'E'**.
9. That DSIIDC invited the Request for Proposal (RFP) on 12.12.2017 for development of TSDF. The technical bids were opened on 05.02.2018 but due to single bid, the tenders were rejected.
  10. The RFP was re-invited in February, 2018. In this call two bidders namely M/s Tamilnadu Waste Management Limited (M/s TNWML ) and M/s SMS Limited participated, but during technical evaluation, it was found that one of the bidder i.e. M/s Tamilnadu Waste Management Limited was not meeting all the technical criteria as mentioned in RFP and their bid was rejected.
  11. M/s Tamilnadu Waste Management Limited filed a Writ Petition before the Hon'ble High Court of Delhi against rejection of their bid vide Writ Petition No. WP (C) 11544/2018 but court found no merit in their contention and the Writ Petition was dismissed on 19.11.2018.



12. After the dismissal of Writ Petition of M/S TNWML, financial bid of the other bidder i.e. M/s SMS Limited was opened, processed and submitted to the Board of Directors of DSIIDC in the Board meeting held on 19.12.2018. Since M/s SMS Limited was the single bidder and quoted High Capital Cost & High Tipping fee in comparison to existing facilities in the country for treatment of similar nature of hazardous waste, the Board of DSIIDC directed to re-invite the tender with a wider publicity so that all eligible may participate in the tendering process.

Copy of the decision taken by the Board in the meeting held on 19.12.2018 is annexed as **Annexure - 'F'**.

13. Accordingly, tenders were re-invited on 26.12.2018 for third time for execution of the work. Two bids were received and after evaluation both were found technically qualifying. Meanwhile M/s SMS Limited, whose financial bid was opened in earlier tender, approached Hon'ble High Court of Delhi through a Writ Petition (C) 765/2019 on 22.01.2019 against the cancellation of the bidding process. Hon'ble High Court vide its order dated 23.01.2019 directed not to finalize and award the contract pursuant to the NIT / tender issued in December 2018 till the next date of hearing (Copy of the order is annexed as **Annexure - 'G'**). The Hon'ble High Court of Delhi finally dismissed the Writ Petition on 09.10.2019.

14. Subsequent to the dismissal of writ petition, DSIIDC is in the process for opening of financial bids of the tenderers for taking further action to set up TSDF for disposal of hazardous waste of Delhi.

Dy. Commissioner of Industries  
Industries Department  
Govt. of NCT of Delhi  
Udyog Sadan, Patparganj, Delhi

Place: New Delhi  
Dated: 15.11.2019

*[Faint official stamp and text, partially illegible]*

Annexure 'A'  
333/ (P-06)  
17/06/15  
c/60

BEFORE THE NATIONAL GREEN TRIBUNAL,  
PRINCIPAL BENCH, NEW DELHI

Original Application No. 305 of 2013

Balam Singh Rawat Vs. Govt. Of NCT of Delhi & Ors.

**CORAM :** HON'BLE MR. JUSTICE SWATANTER KUMAR, CHAIRPERSON  
HON'BLE MR. DR. D.K. AGRAWAL, EXPERT MEMBER  
HON'BLE MR. BIKRAM SINGH SAJWAN, EXPERT MEMBER

**Present:**

<b>Applicant:</b>	Appearance not marked
<b>Respondent Nos. 1 &amp; 2:</b>	Mr. Biraja Mahapatra, Adv. & Mr. Dinesh Jindal, LO
<b>Respondent No. 5:</b>	Mr. Arun K. Sharma and Mr. Varun Sharma, Advs.
<b>Respondent No. 6:</b>	Mr. Ardhendumauli Kumar Prasad, Adv.
<b>Respondent No. 7:</b>	Mr. Sunil Goel, Adv. along with Mr. Susheel Bhartiya, Adv., Mr. P. K. Gupta, Commissioner, North DMC and Mr. Anil Gupta, CLO, North DMC
<b>Respondent No. 8:</b>	Mr. Hemant Kumar, Adv.
<b>Respondent No. 10:</b>	Ms. Savitri Pandey, Adv. For State of U.P. and Ms. Azma Praveen, Adv. Mr. Vikas Malhotra and Mr. M.P. Shay, Advs.(MoEF) Mr. Anil Grover, AAG State of Haryana and Ms. Divya Jain, Adv.

Date and Remarks	Orders of the Tribunal
<p>Item No. 13</p> <p>March 30, 2015</p>	<p>The Commissioner, North Delhi Municipal Corporation is present and he submits that in the meeting it has been finalized and this Corporation is prepared to hand over 14 acres of land for dealing with the Hazardous Waste in Bawana, NCT, Delhi. However, the project is to be developed by the DSIIDC in collaboration with the DPCC.</p> <p>Today, it is surprising that nobody is present on behalf of the DSIIDC. Let notice be issued to the Managing Director, DSIIDC to be present before the Tribunal on the next date of hearing along with draft plan which should be prepared in the meanwhile.</p>

(P-06)

(P-07) (P-07)

427  
459

		<p>List the matter on 15<sup>th</sup> April, 2015.</p> <p>.....,CP (Swatanter Kumar)</p> <p>.....,EM (Dr. D.K. Agrawal)</p> <p>.....,EM (Bikram Singh Sajwan)</p>
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(P-07)

BEFORE THE NATIONAL GREEN TRIBUNAL

APPLICATION NO 305/2013

Annexure-'B' (P-08)

G26  
158

In the matter of

Balam Singh Rawat

Applicant

Versus

Govt of NCT of Delhi and ors

Respondents

AG-15

AFFIDAVIT ON BEHALF OF MANAGING DIRECTOR , DSIIDC  
IN COMPLIANCE WITH ORDER DATED 23.7.2015

I Sanjeev Ahuja, aged 49 years presently working as the Managing Director, DSIIDC, F-36, Bombay Life Building, New Delhi 110001 do hereby solemnly affirm as under:

1. I say I am the Managing Director of the aforesaid organisation and in my official capacity competent to file the present affidavit in compliance with the order dated 23.7.2015 on the basis of the records and information given to me with regard to setting up of a Treatment Storage Disposal Facility (TSDF) at SLF Site, Bawana.

2. I say the DSIIDC had pursuant to order dated 30.03.2015 had filed a draft plan for construction of TSDF specifying therein the details of a work-plan subject to availability of funds, environmental clearance and other formalities. The work plan as presented by my predecessor was as under:



(P-08)

(P-09)  
925  
487

- a. After handing over of land to DSIIDC, a consultant shall be appointed for the project for the Preparation of Conceptual Plan, Preparation of Tender Documents, Beds Evaluation, and Technical Supervision during construction etc. ( Two months)
  - b. Preparation of Conceptual Plan, Reports & tender documents by consultant. (one month)
  - c. Approval of draft tender documents by Competent Authority and DPCC/Department of Environment, Govt of NCT of Delhi. (15 days)
  - d. Publicity period of Notice Inviting Tender in Newspapers etc. (one month)
  - e. Tender Processing and Award . (three months)
  - f. Environment Clearance and other clearances (may vary as it is to be cleared by another agency) (six months)
- Development of TSDF (The development work of TSDF shall be started after the receipt of Environment Clearance) (12 months)



3. That the land in the present case was handed to the DSIIDC on May 13, 2015.
4. I say proposal for engagement of consultant for providing consultancy for the development of TSDF was invited by way of advertisement in leading newspaper and also on DSIIDC & Govt of Delhi websites on 19.06.2015. Technical proposals were opened on 09.07.2015. Two parties participated in the bid. In the

(P-09)

(P-10) 42A  
456

bid out of two parties, M/s Senes consultants India Pvt Ltd was found eligible whose financial bid was opened on 17.07.2015. After negotiation M/s Senes Consultants India Pvt Ltd has been selected as a consultant for the project.

5. I say that the DSIIDC, undertakes to broadly comply with the timeframe given for setting up of TSDF and ensure timely completion of work subject to conditions as stipulated above.

Verified by  
D. RAJA MAHAPATRA  
ADVOCATE  
12/9/2007

  
Deponent

Verification

Verified at New Delhi on this 28<sup>th</sup> July 2015, 2015 that the contents of the above affidavit are true and correct to my knowledge on the basis of records and nothing false has been stated therein.



  
Deponent

CERTIFIED TRUE BY THE DEPONENT  
Shri Senes Consultants India Pvt Ltd  
No. 10/11, DSIIDC, New Delhi  
I, the undersigned, do hereby certify that the contents of the above affidavit are true and correct to my knowledge on the basis of records and nothing false has been stated therein.  
28 JUL 2015  
Oath Commissioner, Patiala House Courts, Delhi

(P-10)

Annexure:-C' (P-11)(a)  
423  
455  
P-11

Sub: Setting up of Treatment, Storage and Disposal Facility (TSDF) at Bawana, Delhi for treatment and disposal of hazardous waste generated by Common Effluent Treatment Plants (CETPs) and Industrial units located in industrial Estate of Delhi

62) May kindly see views of Hon'ble L.G of Delhi in para 47 at N/15 to place the matter before Council of Ministers for setting up of TSDF at Bawana, Delhi. The matter was placed before Council of Ministers as per Cabinet Note from C/167, to C/168. Vide Cabinet decision no. 2502 Dated 01/09/2017 (C/170) the Council of Ministers have approved the proposal contained in para-5(a) and (b) of the Cabinet Note which are reproduced below :

" 5 (a) To develop the Treatment, Storage and Disposal Facility for hazardous waste at Bawana in Delhi on PPP basis on the lines of Build, Operate and Transfer Model (BOT) with a concession contract for 25 years in the land situated at Bawana.

(b) To sanction grant in aid towards 50% of the Capital cost to the project amounting to Rs. 8.05 crores (without incineration facility ) for setting up of TSDF for transport, storage, treatment and disposal of hazardous waste at Bawana, Delhi"

63) Accordingly, the aforesaid decision of the Council of Ministers may be placed before the Hon'ble L.G. for taking appropriate view, so that further action can be taken for implementation of the project.

64) Hon'ble L.G. may kindly be requested to approve the above as considered by the Council of Ministers.

65) Submitted Please

8/9/17  
(Praveen Kumar)

Dy. Commissioner of Industries(CETF)

Spl. C.I.  
Arjun Mishra  
8/9/17  
Arjun Mishra  
Spl. C.I.

Pr. Secy - cum C-I

(P-11)

06 May 1917 See the notes in

P-12(1) Pr. 1/2 The approval of the  
(P-12) L.G. may be obtained of the

C.S.

67 May kindly

place the cabinet decision  
before L.G. for taking a  
view on the matter CP 170/c  
and P 167-168(c)

my  
11/09

~~Minister (and)~~

MD  
11/9/17

Singh  
12.9.17

H. M. S.

AK  
10/9/17

~~H. Minister (and)~~

Singh  
19.9.17

Spec CE/S (P-12)

my  
11/9

Office of Chief Secretary, Delhi  
Diary No. 4152  
C. D. No. 11/9/17  
Date 11/9/17

12/9/17  
19/9/17

29553  
12/9/17

Personal Branch of  
Commissioner of Industries  
Diary No. 54  
20/9/17

Office of the Spl. C  
Di. No. 9256  
Date 11/9/17

(P-13)

C/679  
422  
C/574

GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF DELHI  
GENERAL ADMINISTRATION DEPARTMENT  
(CO-ORDINATION BRANCH)  
DELHI SECRETARIAT 1.P. ESTATE, NEW DELHI

No.F 3/3/2017/GAD/CNI 2581 - 2592

Dated: 04.09.2017

3868  
4/9/17



CABINET DECISION NO. 2502 DATED 01/09/2017

**Subject:** Setting up of Treatment, Storage and Disposal Facility (TSDF) at Bawana, Delhi for treatment and disposal of hazardous waste generated by CETPs and Industrial Units located in Industrial Estate of Delhi.

**Decision:** The Council of Ministers considered the note of Secretary (Industries) and approved the proposal contained in para-5(a) and (b) of the cabinet note.

Handwritten signature lines.

--Sd/--

(Dr. M.M. Kutty)

Secretary to the Cabinet

Dated: 04.09.2017

No.F.3/3/2017/GAD/CNI 2581-2592

- 1) Secretary to Lt. Governor, Delhi.
- 2) Spl. Secretary to the Chief Minister, Delhi.
- 3) Secretary to Dy. Chief Minister, Govt. of NCT of Delhi.
- 4) Secretary to Minister, Labour, Govt. of NCT of Delhi.
- 5) Secretary to Minister, Health, Govt. of NCT of Delhi.
- 6) Secretary to Minister, Food and Supply, Govt. of NCT of Delhi
- 7) Secretary to Minister, Tourism, Govt. of NCT of Delhi.
- 8) Secretary to Minister, Transport, Govt. of NCT of Delhi
- 9) Secretary (Industries), Govt of NCT of Delhi, with request to upload ATR on CDMS.
- 10) OSD to Chief Secretary, Govt. of NCT of Delhi
- 11) Hindi Officer, Language Department, Govt. of NCT of Delhi for translation.
- 12) Guard file.

CC to DSI  
D No: 6603  
Date: 6/9/17

2267/CAN  
4/9/17

(ASHOK KUMAR)  
Spl. Secretary (GAD)

(P-13)

Annexure, D'c (P-14)  
17/11

GT  
CS

**Department of Environment, Govt. of NCT of Delhi**

Level 6<sup>th</sup>, C-Wing, Delhi Secretariat, New Delhi - 02

Telefax: 23392029

No. F. 12(555)/ Env./TSDF/Cabinet Note Comments/2017/6722-CRS Date: 04/12/17

To

Sh. Arun Mishra,  
Spl. Commissioner (Industries) -cum- Executive Director (DSIIDC),  
N-36, Bombay Life Building, Connaught Circus, New Delhi -110 001.

**Sub.: Setting up of Treatment Storage and Disposal Facility (TSDF) at Bawana for disposal of Hazardous Waste of Delhi.**

Sir,

As you are already aware that TSDF at Bawana is being set up without incineration facility as decided earlier.

However, Delhi Govt. is committed for clean environment on a long term plan and Delhi has very limited land. Land for TSDF has been obtained with great difficulty and that too with the intervention of NGT. Chances of getting land for TSDF in future also seem rare.

Therefore, after reconsideration and discussing the matter at large in a meeting taken by Hon'ble Minister (Environment), GNCTD, it has been felt necessary that upcoming TSDF at Bawana must include the incineration facility as it will be be difficult, rather not possible to modify the TSDF for incineration facility in future. Also, sending 10% incinerable waste to other states, i.e., UP for incineration may be difficult in future due to political reasons, change in contract terms, NGT/ Court directions, etc.

Moreover, Delhi's TSDF has to be self- sufficient and a state of the art facility with all latest technology and should not lack in any technical aspect.

In view of above, kindly process the proposal for setting up of TSDF with incinerator while also providing space for storage of incinerable waste in the Facility.

Cost of construction of the facility with incineration has been estimated as Rs. 20 crores while, facility without incineration has been estimated to be Rs. 16.1 crores. Rest assured, DPCC is still committed to provide 50% upfront Grant for the Capital cost of the project, i.e., Rs. 10 Crores.

Further, as per the provisions of Solid Waste Management Rules, 2016, it is also requested to kindly provide for storage and disposal of domestic hazardous waste in the Bawana Facility.

Yours Sincerely,

(S. M. Ali)

Spl. Secretary (Env.)-cum-Member Secretary (DPCC)

Copy to:

1. Commissioner (Industries), GNCTD
2. OSD to Hon'ble Minister (Env.), GNCTD.
3. PS to Secretary (Env.)-cum-Chairman DPCC

(P-14)

Annexure E (P-15)  
2/5/2018

1375  
1376

CABINET MATTER

GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF DELHI  
GENERAL ADMINISTRATION DEPARTMENT  
(CO-ORDINATION BRANCH)  
DELHI SECRETARIAT, I.P. ESTATE, NEW DELHI

No.F.3/3/2018/GAD/CN/ 2378-2390

Dated: 22-06-2018

- 1 Pr. Secretary to Lt. Governor, Delhi.
- 2 Spl. Secretary to the Chief Minister, Delhi.
- 3 Secretary to Dy. Chief Minister, Govt. of NCT of Delhi.
- 4 Secretary to Minister, Labour, Govt. of NCT of Delhi.
- 5 Secretary to Minister, Health, Govt. of NCT of Delhi.
- 6 Secretary to Minister, Food and Supply, Govt. of NCT of Delhi.
- 7 Secretary to Minister, Tourism, Govt. of NCT of Delhi.
- 8 Secretary to Minister, Transport, Govt. of NCT of Delhi.
- 9 Chief Secretary, Govt. of NCT of Delhi.
- 10 All Pr. Secretaries/Secretaries, Govt. of NCT of Delhi.

Personal Branch of  
Commissioner of Industries  
Diary No. 2395  
Date: 26/6/18

Sub: Minutes of the meeting of the Council of Ministers dated 21.06.2018.

Sir/Madam,

The Minutes of the meeting of the Council of Ministers held on 21.06.2018 signed by Chief Secretary/ Secretary to the Council are circulated herewith.

Yours sincerely,

(Manoj Parida)

Joint Secretary to the Council

Encl: As above.

SA Comm 2



28/6

DCI (CETA) - P 2  
SEC (BHV)  
DCH (R) ✓ DCI

Put up on file

(P-15)

(P-16)

CHH  
CHB  
188/L  
CHH

SECRET

**GOVERNMENT OF THE NATIONAL CAPITAL TERRITORY OF DELHI  
(GENERAL ADMINISTRATION DEPARTMENT)**

The Council of Ministers met on Thursday the 21<sup>st</sup> June, 2018 at 11.00 AM in CM Office, Delhi Secretariat.

Present :

- 1. Shri Arvind Kejriwal, Chief Minister/Minister (Water) In Chair
- 2. Shri Manish Sisodia, Deputy Chief Minister [Edn/Fin/Plg/L&B/Vig/Services/WCD/Tourism/ACL]
- 3. Shri Gopal Rai, Minister [Emp/Dev/Lab/GAD/I&FC]
- 4. Shri Satyendar Jain, Minister [H&FW/Inds/PWD/Power/Home/UD]
- 5. Shri Anand Kumar, Minister [F&S/E&F/Election]
- 6. Shri Rajendra Pal Gautam, Minister [Gurudwara Elections/SCST/SN/Cooperative]
- 7. Shri Kailash Gahlot, Minister [L&]/Tpt/AR/IT/Rev]

The following officers were present:

- 1. Shri Anshu Prakash, Chief Secretary
- 2. Shri Manoj Kumar Parida, Pr. Secretary (Home/GAD)
- 3. Smt. Renu Sharma, Pr. Secretary (Finance)
- 4. Shri A.K. Mendiratta, Pr. Secretary (LJ&LA)
- 5. Dr. Mohanjeet Singh, Pr. Secretary-cum- Commr. (Industries)
- 6. Shri Sanjiv Khirwar, Secretary (H&FW)

CIRCULATED ITEMS

**ITEM 1:** Setting up of Treatment, Storage and Disposal Facility (TSDF) at Bawana, Delhi for treatment and disposal of hazardous waste generated by CETPs and Industrial Units located in Industrial Estate of Delhi.

**Decision** The Council of Ministers considered the note of Pr. Secretary-cum-  
**No. 2583:** Commissioner (Industries) and approved the proposal contained in para 9 of the said Note. ✓

No. 2583

**ITEM 2:** Engagement of Indian Institute of Public Administration (IIPA) on nomination basis for third party audit of 08 autonomous Institutions/Society Hospitals in pursuance of directions of Hon'ble High Court in WP(C) No. 9350/2014 titled Ramesh Chander V/s UOI & Ors. to complete the process of assessment of the deficiencies in these Govt. funded Institutions/Hospitals.

**Decision** The Council of Ministers considered the note of Secretary (H&FW) and  
**No. 2584:** approved the proposal contained in para 7 of the said Note. The Council of Ministers further decided that the autonomous Institutions/Society Hospitals should also be audited by CAG, if not already being done.

(P-16)

(P-17)

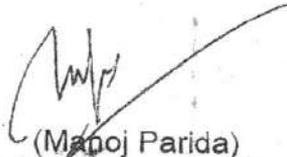
CHS  
~~CHS~~  
CHS  
CHS

ITEM 3: Enhancement of salaries (on consolidated basis) of Chairman, Members and sitting fee of Part-time Members of (1) Delhi Commission for Safai, Karamchari, and (2) Commission for OBC of NCT of Delhi.

Decision Deferred.

No. 2585:

Sd/-  
(Anshu Prakash)  
Secretary to the Cabinet



(Manoj Parida)  
Joint Secretary to the Cabinet

(P-17)

(P-18) 419/26  
419

SECRET

Copy No.....

OFFICE OF THE COMMISSIONER OF INDUSTRIES  
GOVERNMENT OF N.C.T. OF DELHI  
PLOT NO. 419 E, UDYOG SADAN, PATPARGANJ INDUSTRIAL AREA, DELHI

MINISTER-IN-CHARGE: Sh. Satyendar Jain  
Minister of Industries

SECRETARY -IN-CHARGE: Dr. Mohanjeet Singh, IAS  
Pr. Secretary-cum-Commissioner (Industries)

NOTE FOR COUNCIL OF MINISTERS

Sub: Setting up of Treatment, Storage and Disposal Facility (TSDF) at Bawana, Delhi for treatment and disposal of hazardous waste generated by CETPs and Industrial Units located in Industrial Estate of Delhi.

1. BACKGROUND

The Proposal for development of Treatment, Storage and Disposal Facility (TSDF) for hazardous waste at Bawana Delhi was placed before Cabinet in its meeting held on 20.06.2017. In the said meeting, it was decided by the cabinet vide their decision no. 2480 that a group of ministers (GoM) consisting of Sh. Gopal Rai, Hon'ble Minister, Shri Satyendar Jain, Hon'ble Minister and Sh. Kailash Gahlot, Hon'ble Minister will visit the site and give a report in order to enable the Council of Ministers to consider the matter further. A copy of Cabinet Note is placed at **ANNEXURE-(i)**. The decision of the Cabinet is placed at **ANNEXURE-(ii)**. Cabinet further directed that the Secretary (Industries) will submit a note to each Minister through the Chief Secretary on the possible consequences including possible hazards to nearby residents, if any accident takes place in the facility or if the facility fails to adhere to prescribed standards. GoM will visit the locality after Secretary (Inds.) furnishes this note.

2. VISIT OF GOM AT SITE

The GoM comprising Shri Gopal Rai, Hon'ble Minister, Shri Satyendar Jain, Hon'ble Minister and Shri Kailash Gahlot, Hon'ble Minister have forwarded their report after inspecting the site. A copy of report as provided by GoM is placed at **ANNEXURE-(iii)**. In this report it is stated that "The said location is far away from the residential areas and is appropriate for setting of the afore-mentioned facility".

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3. CABINET MEETING HELD ON 01.09.2017

Subsequently, the proposal was placed before cabinet on 01.09.2017 and approved vide Cabinet decision no. 2502 Dt. 01.09.2017. Copy of Cabinet decision no. 2502 Dt. 01.09.2017 is placed at **ANNEXURE-(iv)** and copy of Cabinet Note at **ANNEXURE-(v)**.

After the approval of cabinet, the above proposal was placed before Hon'ble LG and Hon'ble LG had approved the proposal as mentioned below:

- a) To develop the Treatment, Storage and Disposal Facility (TSDF) for hazardous waste at Bawana, Delhi on PPP basis on the lines of Build, Operate and Transfer Model (BOT) with a concession contract for 25 years in the land situated at Bawana.
- b) To sanction grant in aid towards 50% of the Capital cost to the project amounting to Rs 8.05 Crore (without incineration facility) for setting up of TSDF for transport, storage, treatment and disposal of hazardous waste at Bawana, Delhi.

4. PROPOSAL REVISED:

After the approval of Hon'ble LG, DSIIDC was in the process of calling Request for Proposal (RFP) for the development of TSDF.

Subsequently, a meeting was convened by Hon'ble Minister of Environment, GNCTD on 23.11.2017 to discuss the above proposal which was attended by Secretary (Env)-cum- Chairman DPCC, MS, DPCC-cum- Special Secretary (Env), Chief Engineer (DSIIDC), Director (Env), Sr. Env Engineer (DPCC) and SE(Env), DSIIDC. In this meeting it was decided that the TSDF should be developed with incinerator facility and a revised proposal should be prepared. In this regard, a letter no. F.12 (555) /Env /TSDF /Cabinet Note Comments /2017 /6722-6725 Dt. 04.12.2017 received from Special Secretary-cum- Member Secretary (DPCC), GNCTD is placed at **ANNEXURE-(vi)**. The context of this letter is reproduced below:

***"Delhi Govt. is committed for clean environment on a long term plan and Delhi has very limited land. land for TSDF has been obtained with great difficulty and that too with the intervention of NGT. Chances of getting land for TSDF in future also seen rare.***

***Therefore, after reconsideration and discussing the matter at large in a meeting taken by Hon'ble Minister (Environment), GNCTD, it has been felt necessary that upcoming TSDF at Bawana must include the incineration facility as it will be difficult, rather not possible to modify the TSDF for incineration facility in future. Also sending 10% incinerable waste to other states, i.e UP for incineration may be difficult in future due to political reasons, change in contract terms, NGT/court directions, etc.***

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**Moreover, Delhi's TSDF has to be self-sufficient and a state of the art facility with all latest technology and should not lack in any technical aspect.**

**Deptt. of Environment, GNCTD has directed for setting up of TSDF with incinerator while also providing space for storage of incinerable waste in the facility**

**Cost of construction of the facility with incineration has been estimated as Rs 20 crores while, facility without incineration has been estimated to be Rs. 16.1 crores. Rest assured, DPCC is still committed to provide 50% upfront grant for the capital cost of the project i.e Rs 10 crores and as per the provisions of Solid Waste Management Rules, 2016 they have also requested to kindly provide for storage and disposal of domestic hazardous waste in the Bawana facility".**

5. Accordingly, in view of recommendations of Delhi Pollution Control Committee and Deptt. of Environment, GNCTD, the proposal has been revised. Earlier, the capital cost of the development of TSDF without incinerator was Rs 16.10 crore with O&M cost of Rs 1.60 crore per annum. Now, after incorporating the element of incinerator, the total project cost of developing TSDF has been revised to Rs 20 crore with O&M cost of Rs.1.83 crore per annum. Besides this, the provision of storage and disposal of domestic hazardous waste in the proposed TSDF has also been taken as desired by DPCC and Deptt. of Environment, GNCTD.

6. Draft Cabinet Note was circulated among all the concerned Departments. Comments / views received from the Departments and comments of the Industries Department thereon are given below:-

**(1) Finance Department, GNCTD:**

	<b>COMMENTS/VIEWS OF FINANCE DEPARTMENT</b>	<b>COMMENTS/VIEWS OF INDUSTRIES DEPARTMENT</b>
a)	F D has no objection to set up Treatment, Storage and Disposal Facility (TSDF) with incinerator for hazardous waste at Bawana in Delhi on PPP basis on Build, Operate and Transfer (BOT) model without any upfront grant from the Government	Since the beneficiaries are mainly Micro, Small and Medium Enterprises, it would be advisable to bear 50% of the Capital Cost as grant. The Cabinet vide Decision No.2502 dated 1.9.2017 has already decided to provide grant of 50% Capital Investment so as to reduce the tipping-fee burden on the Industries. The Environment Deptt/ DPCC vide its letter dated 24.3.2017 has also agreed to pay the requisite amount as grant from the Air Ambience Fund.

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123  
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		Further, DPCC has released a sum of Rs.8.05 crores to DSIIDC as 50% upfront grant for setting up of TSDF without incineration facility and as per the revised proposal, DPCC has been requested to release balance Rs.1.95 crores from Air Ambience Fund for setting up of TSDF with incineration facility.
b)	The selection of the concessionaire shall be made on the bidding parameter of lowest "Tipping Fee" (i.e., fee payable to the concessionaire for transportation, treatment and disposal of waste) per ton of waste.	Industries Department has taken note of the suggestions. Bids for engagement of concessionaire have been invited accordingly and the lowest Tipping Fee has been taken as the bid parameter in the tender conditions.
c)	The "Tipping Fee", if any, is chargeable from the industrial units like printing, metal surface treatment pharmaceuticals, motor vehicle service centre, dyeing, textiles, electronic units etc., which are mainly responsible for generating the hazardous waste	Industries Department has taken note of the suggestions. Bids have been invited accordingly.
d)	Since DSIIDC is entrusted with the work relating to construction of CETPs under DIDOM Act and "Industrial Development, Operation and Maintenance Fund" is also being operated by the Corporation there under, FD not agrees to give 50% grant in aid by the government. Moreover, the proposed project is being set up on PPP basis on Build, Operate and Transfer (BOT) model and thus FD is of the view that no capital cost is to be borne by the Government	<p>TSDF is being created for storage/ disposal of hazardous waste generated from the units like printing, metal surface treatment pharmaceuticals, motor vehicle service centre, dyeing, textiles, electronic units etc. under Hazardous Waste and other Wastes (Management and Trans-boundary Movement) Rules, 2016.</p> <p>The mandate of DSIIDC inter-alia includes construction of CETPs under DIDOM Act and not the TSDF which has been assigned to DSIIDC as Executing Agency.</p> <p>Since the beneficiaries are mainly Micro, Small and Medium Enterprises, it would be advisable to bear 50% of the Capital Cost as grant. The Cabinet vide Decision No.2502 dated 1.9.2017 has already decided to provide grant of 50% Capital Investment so as to reduce the tipping-fee burden on the</p>

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	<p>Industries. The Environment Deptt/DPCC vide its letter dated 24.3.2017 has also agreed to pay the requisite amount as grant from the Air Ambience Fund.</p> <p>Further, DPCC has released a sum of Rs.8.05 crores to DSIIDC as 50% upfront grant for setting up of TSDF without incineration facility and as per the revised proposal, DPCC has been requested to release balance Rs.1.95 crores from Air Ambience Fund for setting up of TSDF with incineration facility.</p>
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(2) Planning Department, GNCTD:

	COMMENTS/VIEWS OF PLANNING DEPARTMENT	COMMENTS/VIEWS OF INDUSTRIES DEPARTMENT
i.	The Proposal to develop the Treatment, Storage and disposal Facility (TSDF) for hazardous waste at Bawana, Delhi on PPP basis and to provide grant in aid towards 50% of the Capital Cost of the project (without incineration facility) i.e. Rs.8.05 crore has already been approved by Cabinet and Hon'ble Lt. Governor Delhi. That time the proposal was without incineration facility	No comments since it is a factual position.
ii)	The estimated capital cost of TSDF with incinerator would be Rs.20 crore. GNCTD will have to bear Rs.10 crore i.e. 50% of the capital cost of the project instead of Rs.8.05 (without incinerator). Deptt. of Environment in its comments on earlier draft Cabinet Note proposed to meet for capital cost from "Air Ambience Fund" as the upfront grant.	No comments, since it is a factual position.
iii)	Keeping in view the facts the proposal for setting up of Treatment, Storage and Disposal Facility (TSDF) at Bawana, Delhi already approved by Cabinet and by Lt. Governor, land made available by the North DMC for	The Planning Department has concurred with the proposal.

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<p>the proposed Plant, Planning Department, may have no objection to the present proposal subject to the condition that it does not violate approved norms and standards applicable to such Plant with incineration facility and all necessary clearances are obtained for the appropriate authorities</p>	
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**(3) ENVIRONMENT DEPARTMENT, GNCTD:**

	<b>COMMENTS/VIEWS OF ENVIRONMENT DEPARTMENT</b>	<b>COMMENTS/VIEWS OF INDUSTRIES DEPARTMENT</b>
1.	To develop the Treatment, Storage and Disposal Facility with incinerator for disposal of hazardous waste of Delhi on PPP basis on the lines of Build, Operate and Transfer (BOT) Model with a concession contractor for 25 years on 14 acres land situated at Bawana in Delhi. The facility will also provide for Treatment and Storage of Domestic hazardous waste as per the provisions of the Solid Waste Management Rules, 2016.	The Department has taken note of the suggestions and the provision for Treatment and Storage of Domestic hazardous waste as per the provisions of the Solid Waste Management Rules, 2016 has been incorporated in the Request For Proposal floated for selecting the developer/ operator.
2.	To sanction grant in aid by Government of NCT of Delhi towards 50% of the Capital Cost of the project amounting to Rs.10 crore for setting up of TSDF (with incineration facility) for Treatment Storage and Disposal of hazardous waste of Delhi at Bawana, Delhi	The Environment Deptt/DPCC has agreed to contribute their share of 50% of the Capital Cost of the project to set up TSDF with incineration facility.
3.	Vide sanction order dated 20.03.2018, DPCC has already released Rs.44,10,00,000/- from Air Ambience Fund to North DMC as cost of 14 acre land at Bawana. While DPCC, vide sanction order dated 20.03.2018 ( <b>Annexure-vii</b> ) has also released Rs.8.05 crore from Air Ambience Fund to DSIIDC as 50% upfront grant for setting up of TSDF without incineration facility, and as per the revised proposal, DPCC has now only to pay Rs.1.95 crore from Air Ambience Fund for setting up of TSDF with incineration facility	The Environment Deptt./DPCC has agreed to pay the balance contribution of Rs.1.95 crore from Air Ambience Fund for setting up of TSDF with incineration facility.

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**(4) Law, Justice and Legislative Department, GNCTD:**

<b>COMMENTS/VIEWS OF DEPTT. OF LAW, JUSTICE AND LEGISLATIVE AFFAIRS:-</b>	<b>COMMENTS/VIEWS OF INDUSTRIES DEPARTMENT</b>
The Law department stated that the matter is mainly administrative and financial in nature, which requires a policy decision at the appropriate administrative level. While forwarding the draft Note to this Department, no specific legal query has raised for examination in this Department. Therefore, the administrative Department may apprise the Council of Ministers about the recommendations / comments of Deptt of Environment, DPCC on technician, aspects and views of the Finance Department and Planning Department, on policy and financial aspects so that the appropriate decision may be taken in the matter by the Council of Ministers. The administrative Department may ensure that the factual position mentioned in the draft Note for Council of Ministers is correct in all respect and that all the Codal formalities required for such cases and provisions of the TBR are duly complied with.	<b>Suggestions</b> given by the Deptt. of Law, Justice and Legislative Affairs will be complied.

**7. FINANCIAL IMPLICATIONS:**

With the acceptance of the proposal, there will be additional financial burden of Rs.1.95 crores, which DPCC has agreed to bear. Hence, there will be no financial implications on the finances of the Govt of NCT of Delhi.

**8. RESPONSIBILITY MATRIX OF VARIOUS DEPARTMENTS AND AGENCIES**

Considering legal provisions for the development of TSDF for hazardous waste, the responsibilities of various Departments and Agencies have been listed as under:-

Sl. No	Department	Responsibilities
1.	Deptt. of Environment & Forest, GNCTD	A piece of 14 acre of land at Bawana taken over from North DMC on

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Sl. No	Department	Responsibilities
		13.05.2015 by the deptt. of Environment & Forest, GNCTD has been subsequently handed over to DSIIDC for development of the TSDF. The ownership of land will continue to be with the government of N.C.T. of Delhi and the whole or any part of it shall not be parted with by the Project Executing Agency/Concessionaire.
2.	Deptt. of Industries, GNCTD	Deptt. of Industries, GNCTD will be implementing the project of development of TSDF on behalf of Govt. of Delhi. On successful development of the TSDF facility and having made it functional, the site shall be notified by the Deptt. of Industries, GNCTD under the Hazardous and other wastes (Management and Trans-boundary Movement) Rules, 2016.
3.	DSIIDC	DSIIDC shall look after administrative part and will act as project executing agency on behalf of Department of Industries. DSIIDC shall be responsible for setting up/development of TSDF Project and its operation and maintenance as per agreement with the developer/ concessionaire.
4	DPCC	Delhi Pollution Control Committee (DPCC) shall monitor the TSDF project from the stage of its development as per guidelines issued by Central Pollution Control Board from time to time and to oversee subsequent satisfactory operation of the said treatment, storage and disposal facility regularly.

9. **APPROVALS SOUGHT:**

In view of the above, the following proposal is placed before the Council of Ministers for kind consideration:-

- a. To develop the Treatment, Storage and Disposal Facility with incinerator for disposal of hazardous waste of Delhi on PPP basis on the lines of Build, Operate and Transfer (BOT) Model with a concession contract for 25 years on 14 acres land situated at Bawana, in Delhi. The facility will also provide

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for Treatment and Storage of domestic hazardous waste as per the provisions of the Solid Waste Management Rules, 2016.

- b. To sanction additional grant in aid to be released by DPCC from the Air Ambience Fund upto Rs.1.95 crores towards 50% of the Capital cost of the project for setting up of TSDF (with incineration facility) for transport, storage, treatment and disposal of hazardous waste of Delhi at Bawana, Delhi.
10. The Minister of Industries has approved the note for the Council of Ministers.

*Mohanjeet Singh*  
28.5/18

**( Mohanjeet Singh )**  
**Pr. Secretary-cum-Commissioner (Industries)**  
**Govt. of NCT of Delhi**

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Annexure 'F' (P-25/18)  
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EXTRACT OF MINUTES OF THE 280<sup>th</sup> MEETING OF THE BOARD OF DIRECTORS OF DSIIDC HELD ON WEDNESDAY, 19<sup>TH</sup> DECEMBER, 2018 AT 4.30 P.M. IN THE CONFERENCE ROOM OF A-WING, 7<sup>TH</sup> LEVEL, DELHI SECRETARIAT, NEW DELHI-110002.

Agenda Item: 6

Setting up of Treatment, Storage and Disposal facility (TSDF) for hazardous waste on BOT basis at Bawana in Delhi.

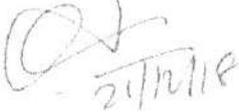
6.1 It was informed that the Board in its 278<sup>th</sup> meeting held on 26.09.2018 gave its approval for opening of financial bid of M/s. SMS Ltd. being a single bid for setting up of Treatment, Storage and Disposal Facility (TSDF) at Bawana, Delhi. It was further informed that after the approval of the Board, Financial Bid of M/s. SMS Ltd. was opened on 18.10.2018.

6.2 It was further informed that M/s. SMS Ltd. had quoted Rs. 2,77,37,080/- for first year of its operation for the estimated quantity of waste to be generated per year, which was 5.32% higher than the estimated financial effect of Rs 2,63,36,800/- for the same period. A negotiation meeting was held with the M/s. SMS Ltd. on 04.12.2018 to explore the possibilities of further reduction in quoted tipping fee. After negotiation meeting, the bidder had offered negotiated tipping fee of Rs 2,70,99,520/- for first year of its operation, which was 2.89% above than the estimated amount i.e. Rs 2,63,36,800/-.

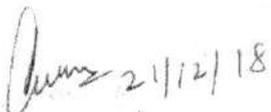
6.3 It was further informed that the capital cost of the project as estimated by the consultant in December 2016 was Rs. 20,00,00,000/- while the capital cost as indicated by M/s SMS Ltd. was Rs. 32,21,92,000/- which was 60% higher than the estimated capital cost of Rs. 20,00,00,000/- which showed that the bidder had quoted higher tipping fee as the only mode to recover initial capital expenditure after commissioning of the project through tipping fee

6.4 A comparison of tipping fees being charged by similar nature of facilities at other part of the country for similar nature of hazardous waste also indicated that the tipping fees quoted by M/s SMS Ltd after negotiation was on higher side.

6.5 In view of the above and the fact that M/s. SMS Ltd. is the single bidder available to carry out the project, the Board directed to re-invite the tender with a wider publicity so that all eligible may participate in the tendering process and further authorized Managing Director to take immediate action in the matter.

  
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SE (Env.)

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Annexure - G

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\* IN THE HIGH COURT OF DELHI AT NEW DELHI  
+ W.P.(C) 765/2019, C.M. APPL.3325-3326/2019

SMS LIMITED

..... Petitioner

Through : Sh. Ashish Dholakia, Sh. Anikit Mangla  
and Ms. Surbhi Sharma, Advocates.

versus

DELHI STATE INDUSTRIAL & INFRASTRUCTURE  
DEVELOPMENT CORPORATION LTD ..... Respondent

Through : Ms. Nikita Salwan, Advocate.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT  
HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER  
23.01.2019

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Issue notice. Ms. Nikita Salwan, Advocate accepts notice.

The respondent/DSI IDC's notice invited tenders (NIT) for development of treatment, storage and disposal facility for hazardous waste. Its bid submitted in March 2018 was deemed compliant and acceptable as of October, 2018.

However, it is further contended that till date, the bid has not been rejected. Learned counsel relied upon clause 3.7 of the said NIT issued in March 2018, to the following effect:

***3.7 Contacts during Bid evaluation***

*Bids shall be deemed to be under consideration immediately after they are opened and until such time DSI IDC makes official intimation of award/rejection to the Bidders. While the Bids are under consideration,*

Page 1 of 2

(P-28)

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*Bidders and/or their representatives or other interested parties are advised to refrain, save and except as required under the Bidding Documents, from contacting by any means, DSIIDC and/or their employees/representatives/advisors on matters related to the Bids under consideration."*

It is submitted that the impugned tender/NIT issued in December 2018 is arbitrary inasmuch as that even though the petitioner was deemed complaint and its bid acceptable, a fresh bidding has ensued to its prejudice in this regard.

This Court is of the opinion that in the circumstances, the petitioner should, without prejudice to its rights, be permitted to participate in the fresh bidding/NIT process provided it prefers to do so, within the time given in that regard in the fresh NIT.

The respondent DSIIDC is, in the circumstances, directed not to finalise and award the contract pursuant to the NIT/tender issued in December 2018 till the next date of hearing. The respondent shall ensure that the original records pertaining to the evaluation of the tender/NIT of February 2018 as well as the office notings and documents pertaining to the decision to issue or publish a fresh tender for the same work during the pendency of the earlier NIT without indicating a final decision, are produced in the Court on the next date of hearing. List on 20.02.2019.

S. RAVINDRA BHAT, J

PRATEEK JALAN, J

JANUARY 23, 2019/AJK

Page 2 of 2

(P-29)