2026:DHC:5388-DB

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

% *Date of Decision : 06.07.2026*

\+ **W.P.(C) 8757/2026**

SPVR PROJECTS PRIVATE LTD .....Petitioner

Through: Mr. Parag P. Tripathi and Mr. Ravi Parkash, Sr. Advs. with Ms. Bani Dikshit, Mr Uddhav Khanna, Mr Dhruva Vig, Mr Raj Aryan Singh, Ms. Astu Khandelwal and Mr. Sarthak Segal, Advs.

versus

ENERGY EFFICIENCY SERVICES LIMITED (EESL) .....Respondent

Through: Mr. Samdarshi Sanjay, Ms. Monika Sharma and Mr. Ashish Kumar Sharma, Advs.

CORAM:
HON'BLE MR. JUSTICE V. KAMESWAR RAO
HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

MANMEET PRITAM SINGH ARORA, J. (*ORAL*)

CM APPL. 41121-41122/2026 *(Exemptions)*

1. Exemptions are allowed, subject to all just exceptions.

2. The applications stand disposed of.

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3. The present writ has been filed under Article 226 of the Constitution of India with the following prayers:

"In the light of the aforesaid facts and circumstances, the Petitioner, therefore, most respectfully prays that this Hon'ble Court may be pleased to:

a. Issue an appropriate writ, order or direction in the nature of certiorari or any other appropriate writ **quashing** and setting aside the **Notice Inviting Tender No. EESL/06/2026-27/SL/AP ULBS-CDMA/OTE/262704001 dated 16.04.2026** issued by the Respondent, along with all amendments thereto, being arbitrary, unreasonable, capricious and lacking application of mind, and in contravention of the spirit of Articles 14 and 19(1)(g) of the Constitution; and

b. Issue a writ, order or direction in the nature of a writ of Mandamus or any other appropriate writ directing the Respondent to undertake the procurement of the project (as defined hereunder) through a fair, transparent and competitive tender process in accordance with law.

c. Pass such other or further orders as this Hon'ble Court may deem fit and proper in the circumstance of the case"

(Emphasis supplied)

4. The Petitioner, SPVR Projects Private Limited, is stated to be engaged in the business of LED[1] streetlighting infrastructure, smart lighting systems, and operation and maintenance services.

5. The Respondent, Energy Efficiency Services Limited ['EESL'], is stated to be the tender-issuing authority which issued the NIT No. EESL/06/2026-27/SL/AP ULBs-CDMA/OTE/262704001 ['Impugned Tender'] for replacement and Operation and Management of **7,41,366 street lights**, across the three [3] DISCOM-wise packages in the Urban Local Bodies ['ULBs'] namely Package-1 (APEPDCL), Package-2 (APSPDCL) and Package-3 (APCPDCL), for a contract period of seven [7] years,

[1] Light Emitting Diode

extendable by a period of two [2] years [‘Project’], fixing the base rate at Rs. 133 per LED light per month, exclusive of GST [‘approximately Rs.157 inclusive of GST’]. The bidders were permitted to quote only a downward discount from the said base price of Rs. 133. It is stated that by Amendment No. 4 dated 26.05.2026, Respondent clarified that bids above the base price of Rs. 133 would be treated as non-responsive.

6. It is stated that the bid submission deadline for Package-3 has been extended to 07.07.2026.

7. Mr. Tripathi, learned senior counsel for the Petitioner states that the base rate of Rs. 133 is arbitrary and commercially unworkable as is evident from the record of this tender.

7.1. In this regard, he submits that on 14.11.2025, the Government of Andhra Pradesh and Respondent/EESL executed a Memorandum of Understanding [‘Summit MoU’] at the CII Partnership Summit, Visakhapatnam. The Summit MoU was only an expression of investment intent and did not create procurement rights, contractual obligations, fixed rates, or any procurement process.

7.2. He states that on 13.01.2026, Andhra Pradesh State Energy Efficiency Development Corporation Limited [‘APSEEDCO’] issued a Notice inviting Expression of Interest-bearing Bid No. APSEEDCO/AP Streetlights Project/e-03/2025 [‘EOI’] for replacement as well as Operation and Maintenance of around 10.20 lakh LED street lights, with ILMS-based smart LED systems across Andhra Pradesh ULBs. The said EOI expressly stated that it was non-binding, intended for market assessment and benchmarking, and that the subsequent procurement was to proceed through Open Competitive Bidding.

7.3. He states that significantly, the Respondent/EESL did not participate in the EOI process.

7.4. He states that, however, in pursuance to the aforesaid EOI, it was Respondent/EESL which conducted a vendor meeting on 26.02.2026 and circulated budgetary enquiries to around 35 prospective bidders. Seven [7] technically qualified agencies quoted indicative rates ranging from Rs. 184 to Rs. 610 per light per month. The seven [7] indicative rates disclosed by EESL resulted in an average rate of Rs. 215.81 per light per month, exclusive of GST.

7.5. He states that on 16.03.2026, the Government of Andhra Pradesh passed a Memo approving entering into an MoU with Respondent/EESL for ILMS-based enhanced energy-efficient LED street lighting at Rs. 175 per light per month, inclusive of GST, across ULBs under the Commissioner & Director, Municipal Administration, Andhra Pradesh [‘CDMA’].

7.6. He states that the Memo relied on the Summit MoU as justification for bypassing competitive procurement for a public contract valued at approximately Rs. 924 crores, and the competitive RFP contemplated under the EOI was never issued.

7.7. He states that on 17.03.2026, Respondent/EESL wrote to CDMA seeking reconsideration, stating that the price of Rs. 175 inclusive of GST was not workable and requesting revision to Rs. 215 per light per month, excluding GST. However, CDMA, without reconsidering the said request of Respondent/EESL issued the Award Letter dated 02.04.2026, which was accepted by the Respondent/EESL vide letter dated 06.04.2026. In its acceptance letter Respondent/EESL conveyed its acceptance of the rate of Rs. 175 per light per month inclusive of GST.

7.8. He states that Respondent/EESL thereafter issued the Impugned Tender on 16.04.2026 wherein bidders were permitted to quote only a downward discount from Rs. 133 per light per month exclusive of GST.

7.9. He states that the Petitioner challenges the said condition in the Impugned Tender as arbitrary, unviable and anti-competitive because Respondent/EESL itself found Rs. 175 inclusive of GST unworkable, yet fixed an even lower downstream rate of Rs. 133 exclusive of GST, while retaining a margin of approximately Rs. 95 crores for a limited facilitation role.

8. Mr. Samdarshi Sanjay, learned counsel for the Respondent appears on advance service and states that he has two preliminary objections with respect to the maintainability of the present writ.

8.1. He states that the entire contract pertains to rendering of services in the State of Andhra Pradesh and, therefore, no cause of action has arisen within the jurisdiction of this Court.

8.2. He further states that Clause 5.1 of the General Conditions of Contract [‘GCC’] referred to in the writ petition for invoking the jurisdiction of this Court is inapplicable as the GCC will come into existence only after the contract is awarded to the successful bidder. He states that, since in the facts of the present case, the Petitioner is not a successful bidder, reliance placed on the said clause is inadmissible.

8.3. He states that the Respondent’s corporate office is in Noida and the bid was issued by the said office and not from the office at Delhi.

8.4. He states that, since in the facts of the present case, the Petitioner is not a bidder, no writ petition can be maintainable at the instance of a party which has not participated in the bidding process.

8.5. He submits that the contract for Package-1 and Package-2 of the Impugned Bid has already been awarded to the successful bidder at Rs. 133 per light per month exclusive of GST. He states that there are several bidders who are willing to submit bids at Rs. 133 per light per month exclusive of GST, and therefore, the plea in the writ petition that the said rate is not commercially workable is incorrect.

9. In response, learned senior counsel for the Petitioner states that since the Respondent's registered office is in Delhi, the writ can be maintained at Delhi.

9.1. He also states that although the Petitioner has neither participated in the pre-bid meeting nor submitted bids for Package-1 or Package-2, the same does not disentitle/preclude the Petitioner from maintaining the present petition, particularly since the last date for submission of bids for Package 3 is 07.07.2026.

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

11. The Impugned Tender invites bid for Package-1, Package-2 and Package-3. Respondent has stated that Package-1 and Package-2 have already been awarded to the successful bidder and it shows that the price of Rs. 133 per light per unit is feasible. Bids for Package-3 are scheduled to be submitted on 07.07.2026.

12. To a query from the Court, learned senior counsel for the Petitioner submits that the Petitioner has not made any representation to the Respondent with respect to the grounds now raised in this petition for challenging the Impugned Tender. He also clarifies that the Petitioner did not participate at the pre-bid meeting held on 23.04.2026. He also confirms

that Petitioner did not submit a bid for Package-1 and Package-2. He states that the Petitioner, however, relies upon the queries raised by other intending bidders at the said meeting questioning the commercial viability of the base price of Rs. 133.

13. We note that the submission of the Respondent that the Petitioner has not participated in the bidding process, till date, is admitted. The Impugned Tender was published on 16.04.2026. The Petitioner neither participated in the pre-bid meeting on 23.04.2026 or for bids of Package-1 and Package-2 under the Impugned Tender nor made any representation to the Respondent with respect to the grounds of challenge now raised in the present petition for interdicting the tender process. The filing of the present writ petition on the eve of the bid closing for Package-3 raises question over the bonafide of the Petitioner, which seeks to interdict the tender process for Package-3.

14. In response, learned senior counsel for the Petitioner states that the Petitioner does not wish to interdict the tender process for Package-3, however, it would be useful if the Respondent discloses to the Court its basis for fixing the base price of Rs. 133 exclusive of GST, when the record [i.e., letter dated 17.03.2026] shows that the Respondent itself was of the opinion that price of Rs. 175 inclusive of GST is unfeasible.

15. We are unable to accept the submission of the Petitioner. The present writ petition cannot be converted into a roving enquiry at the behest of this Petitioner to decide the reasonableness and feasibility of the base price of Rs. 133. The subject matter of the writ petition is a challenge to the Impugned Tender. We, however, of the considered opinion that the Petitioner cannot maintain this petition, it has no locus, as it has not participated in the bidding process and the filing of the present petition on

the eve of the bid submissions date of Package-3 does not appear to be bona fide. A writ petition seeking to interdict the tender process cannot be maintained at the behest of a non-bidder and in this regard, we rely upon the judgment of this Bench in **Gaurav Enterprises v. GTB Hospital & Anr.**[2] wherein it has been held as under:

> "11. The law is no longer res integra as regards the issue of locus in the tender matters. It is only entities that have participated in the bidding process who can lay a challenge to the tender. The petitioner, before us, has failed to show any earnestness to participate in the tender process. At this juncture, we find it apposite to refer to the dicta of the Supreme Court in **National Highways Authority of India v. Gwalior-Jhansi Expressway Limited**[3]. The relevant part of the judgment reads as follows: -
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> > "20. While considering the relief claimed by the respondent (claimant), the same should have been tested on the touchstone of the principle governing the tender process, especially when the validity of the tender document has not been put in issue or challenged before any competent forum. Going by the terms and conditions in the tender documents, as already alluded to in para 10 above, there is no tittle of doubt that the right of the claimant (respondent) to match the bid of L-1 or to exercise ROFR would come into play only if the respondent was to participate in the tender process pursuant to the notice inviting tenders from the interested parties. The objective of tender process is not only to adhere to a transparent mechanism but to encourage competition and give equal opportunity to all tenderers with the end result of getting a fair offer or value for money. The plain wording of the eligibility clause in the tender documents and the incidental stipulations make it explicit that the respondent was required to participate in the tender process by submitting its sealed bid (technical and financial). The fact that a deeming clause has been provided in the tender document that if the respondent was to participate in the bidding process, it shall be deemed to fulfil all the requirements of the tender Clauses 3 to 6 of RFP, being the existing concessionaire of the project, does not exempt the respondent from participating in the tender process; rather the

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tenor of the terms of the documents made it obligatory for the respondent to participate in the tender process to be considered as a responsive bidder, along with others. **Having failed to participate in the tender process and, more so, despite the express terms in the tender documents, validity whereof has not been challenged, the respondent cannot be heard to contend that it had acquired any right whatsoever. Only the entities who participate in the tender process pursuant to a tender notice can be allowed to make grievances about the non-fulfilment or breach of any of the terms and conditions of the tender documents concerned. The respondent who chose to stay away from the tender process, cannot be heard to whittle down, in any manner, the rights of the eligible bidders who had participated in the tender process on the basis of the written and express terms and conditions. At the culmination of the tender process, if the respondent had not participated, in law, the offer submitted by the eligible bidders is required to be considered on the basis of the stated terms and conditions.**

Thus, if the claim of the respondent was to be strictly adjudged on the basis of the terms and conditions specified in the subject tender document, the respondent has no case whatsoever."

[emphasis supplied]

12. Furthermore, a Division Bench of this Court, while deciding on a similar issue, has opined that a petitioner who failed to participate in the tender due to a certain tender condition does not have any locus to challenge the same at a belated stage [**Re: Brijesh Kumar v. Union of India**].

Accordingly, in these facts and in view of the established law, this Court finds that the objection raised by respondent no. 1 with respect to the lack of locus standi of the petitioner to maintain this writ petition has merit."

[The bold and underline in the quote is as per the original text of the cited judgement]

16. For the aforesaid reasons, we do not find any ground to entertain this writ petition, which appears to be intended to interdict the tender process for Package-3 and the same is dismissed for lack of locus standi.

17. The issue of territorial jurisdiction is left open. We, also clarify that we have not examined the merits of the challenge laid to the base price of Rs. 133 per light per month in these proceedings.

18. With the aforesaid directions, the petition is dismissed. Pending applications are disposed of.

MANMEET PRITAM SINGH ARORA, J

V. KAMESWAR RAO, J

JULY 6, 2026/rhc/msh/AJ