2025 INSC 1276

REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO._____/2025
(@ SLP (C) No. 20557/2021)

KIMBERLEY CLUB PVT. LTD. APPELLANT(S)

VERSUS

KRISHI UTPADAN MANDI PARISHAD & ORS. RESPONDENT(S)

J U D G M E N T

Joymalya Bagchi, J.

1. Leave granted.

2. Appellant is aggrieved by the judgment and order dated 07.09.2021 whereby the Division Bench of the Allahabad High Court, Lucknow Bench refused to set aside the decision of 1st respondent-Krishi Utpadan Mandi Parishad[1] rejecting appellant's technical bid on the ground that the '*haisiyat praman patra*' submitted by it had not been issued by District Magistrate.

3. Dispute arose from a tender floated by 1st respondent-Mandi Parishad to let out a banquet hall/terrace lawn for 10 years to the highest bidder. The notice inviting tender[2] prescribed a two-stage bidding process

[1] Hereinafter referred to as "1st respondent-Mandi Parishad"
[2] Hereinafter referred to as "NIT"

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comprising a technical bid and a financial bid. The technical bids were to be evaluated first and only bidders meeting the eligibility criteria would qualify for the second stage, where the financial bids were to be evaluated and tender awarded to the highest bidder. One of the conditions, namely Clause 18 in the NIT stated that bidder must submit a '*haisiyat praman patra'* of minimum ₹10 crores with the technical bid.

4. Appellant as well as 5th respondent (successful bidder) submitted their respective bids. Appellant's technical bid was disqualified for the reason that the '*haisiyat praman patra'* was issued by a private architect and not a District Magistrate. Claiming itself to be the highest bidder and that technical bid had been unlawfully rejected, appellant approached High Court by way of a writ petition.

5. High Court dismissed the writ petition holding that valuation certificate submitted by appellant having been issued by a private architect could not be treated as a '*haisiyat praman patra'*, i.e., solvency certificate which is always issued by the office of District Magistrate.

6. Appellant challenged the decision before this Court by way of Special Leave Petition. This Court on 17.12.2021 while issuing notice, directed as follows:-

> "……*In case the successful tenderer has not started the execution of the tender, no further work be done in pursuance to the tender and in case it has so started, it would be subject to the final orders to be passed by this Court* "

7. We have heard learned counsel for parties and perused the records.

8. The issue which falls for consideration is whether appellant, while submitting a valuation certificate issued by a professional architect

cum private valuer attached to the Income Tax Department, had complied with Clause 18 of NIT which required it to submit a '*haisiyat praman patra'* of minimum ₹10 crores.

9. Appellant has strenuously argued that nothing in the NIT necessitated that '*haisiyat praman patra'* be issued by a District Magistrate. It contended '*haisiyat praman patra'* submitted by the appellant was by an experienced valuer who was empanelled with the Income Tax Department and there was no justification to reject such certificate. It was also argued that the valuation certificate assessed the value of the asset at around ₹99 crores, of which appellant was 76.09 % shareholder, whereas as per clause 18 the bidder was to furnish a '*haisiyat praman patra'* of minimum ₹10 crores only.

10. In rebuttal, the 1st respondent-Mandi Parishad referred to Uttar Pradesh government notification dated 29.10.2018[3] laying down the procedure for issuance of '*haisiyat praman patra'* by District Magistrate. It was contended that Clause 18 required submission of such '*haisiyat praman patra'* and not valuation certificate issued by a private valuer. All bidders apart from appellant had submitted '*haisiyat praman patra'* issued by District Magistrate. It was also contended that valuation certificate does not disclose appellant's net worth as it fails to indicate whether the asset so valued was free from encumbrances.

11. In tender matters, the court exercising judicial review does not sit in appeal over the decision of a tendering authority regarding

[3] Notification No. C.M.-648/One-9-2018-7(M)/18, hereinafter referred to as "government notification"

disqualification of bid. Only in cases where such decision is *dehors* the terms of the NIT or is patently arbitrary would the Court exercise powers of judicial review and set aside such a decision.[4]

12. Having scanned the NIT, we are of the considered view that neither Clause 18 nor any other condition specifies that the '*haisiyat praman patra'* submitted by a prospective bidder must be issued only by a District Magistrate in terms of the government notification.

13. It is trite that the terms of an NIT must be clear and unambiguous.[5] If 1st respondent-Mandi Parishad intended that '*haisiyat praman patra'* must be issued by District Magistrate alone, it ought to have specified so in the NIT conditions.

14. We are also unimpressed by 1st respondent-Mandi Parishad's submission that such condition was implied and followed by other bidders, as nothing is placed on record to show that the government notification was applicable to all tenders floated by 1st respondent-Mandi Parishad. It may not be out of place to bear in mind that the 1st respondent-Mandi Parishad is not a government department to which the notification is *per se* applicable but is a body constituted under a statute, namely Uttar Pradesh Krishi Utpadan Mandi Adhiniyam, 1964.

15. Given the situation, it was incumbent on 1st respondent-Mandi Parishad to indicate in the tender conditions that the '*haisiyat praman patra'* was to be obtained from a District Magistrate as per the procedure laid down in such government notification. Having failed to

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[4] Tata Cellular v. Union of India, (1994) 6 SCC 651 [Para 94]
[5] Maha Mineral Mining & Benefication Pvt. Ltd. v. Madhya Pradesh Power Generating Co. Ltd. & Anr., (2025) SCC Online SC 1942 [Para 19]

do so, the 1st respondent-Mandi Parishad could not have rejected the certificate submitted by appellant on the ground that it was not issued by a District Magistrate. That apart, appellant's certificate has been issued by an experienced valuer registered with the Income Tax Department who is otherwise competent to issue such certificate.

16. A new objection has been raised in paragraph 6 of the counter affidavit filed by 1st respondent-Mandi Parishad to justify the rejection of the certificate submitted by the appellant. It is averred since the certificate does not disclose encumbrances, if any, on the asset, it cannot be termed as a '*haisiyat praman patra'* indicating net worth of the bidder. This objection has been taken for the first time in the judicial proceeding and was not a ground for rejection of the technical bid as would be evident from paragraph 8 of the counter affidavit which unequivocally states as follows:-

> *"The Petitioner's tender had been rejected on the ground that they had not submitted required certificate issued by a District Magistrate"*

17. As per Oxford Hindi – English dictionary, the English translation of the word '*haisiyat'* is "*capacity, ability, means or resources*".[6] No doubt from such perspective, the '*haisiyat praman patra'* would be understood as net worth of the bidder. However, the valuation certificate had not been turned down by 1st respondent-Mandi Parishad on such score. It was rejected on the ground that it had not been issued by a District Magistrate as per the government notification whose applicability to the

[6] Oxford Hindi – English Dictionary, 38th impression – June 2010, Oxford University Press

subject tender had not been spelt out in the NIT. Given these circumstances, we are loathe to permit the 1st respondent-Mandi Parishad to justify the rejection of appellant's technical bid on such additional ground belatedly taken in the counter affidavit. There is no cavil that an order of rejection must be sustained on grounds stated therein and additional grounds cannot be subsequently pressed into service to justify such rejection.[7] On the other hand, the valuation certificate shows the worth of the appellant's share in the asset far exceeds ₹10 crores as required under Clause 18 of the NIT. In such a situation, if the 1st respondent-Mandi Parishad doubted that the asset was encumbered it ought to have sought clarification from the appellant on such score before rejecting the bid.

18. For the aforementioned reasons, we are of the opinion that rejection of appellant's technical bid on ground that appellant's certificate was not issued by District Magistrate is *dehors* the terms of the NIT and is liable to be quashed.

19. Impugned order of the High Court is set aside. The matter is remanded to 1st respondent-Mandi Parishad to reconsider the technical bid of the appellant and if it is satisfied that the net worth of the asset (free of encumbrances, if any) disclosed in the valuation certificate submitted by appellant meets the requirement of Clause 18 of the NIT, it shall accept the technical bid and after due negotiations between appellant and the 5th respondent (successful bidder), decide whether remainder

[7] Mohinder Singh Gill & Anr. v. The Chief Election Commissioner, New Delhi & Ors., (1978) 1 SCC 405 [Para 8]

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of contract be awarded to the appellant or in the event 5th respondent matches the financial bid or enhanced offer of the appellant, permit the 5th respondent to continue the contract for the remaining period.

20. With these directions, the appeal is disposed of.

……, J
(**SURYA KANT**)

……, J
(**JOYMALYA BAGCHI**)

NEW DELHI,

OCTOBER 31, 2025.