

IN THE HIGH COURT OF JHARKHAND AT RANCHI

W.P. (C) No. 5379 of 2024

All India Motor Vehicle Security Association, having its registered office at Flat No. 10, GRD, Apna Ghat Co-operative Society, Pitampura, Delhi-110034. New proposed address- Unit No. DTJ210, Second Floor, DLF Tower-B, Plot No.11, Josola District Centre, Zakir Nagar, New Delhi-110025, through its Authorised Signatory namely Rohit Singh, aged about 38 years, S/o. Jitesh Kumar Singh, R/o. Pawar Villa, Anand Mayi Nagar, Block Road, P.O. & P.S.- Ratu, Dist.-Ranchi, Jharkhand.

..... Petitioner

Versus

1. State of Jharkhand
2. The Chief Secretary, Government of Jharkhand, 1st Floor, Project Building, Dhurwa, P.O. & P.S.- Dhurwa, Dist.- Ranchi, Jharkhand.
3. The Secretary-cum-Transport Commissioner, Government of Jharkhand, Department of Transport, Jharkhand, FFP Building, Project Building, Dhruva, Ranchi, P.O. & P.S. Dhurwa, Dist.- Ranchi, Jharkhand.
4. The Joint Transport Commissioner, Government of Jharkhand, Department of Transport, Jharkhand, FFP Building, Project Building, Dhruva, Ranchi, P.O. & P.S. Dhurwa, Dist.- Ranchi, Jharkhand.
5. The Director (MVL), Ministry of Road Transport and Highways, Government of India, Transport Bhawan, P.O. & P.S. – Parliament Street, District – New Delhi, 110001.
6. M/s. Agros Impex India Private Limited, through its Director, having its registered office at B-6/2, Electronic Estate, GIDC, Sector-25, P.O. & P.S.- Gandhinagar, District- Gandhinagar, Gujarat, 382024.

.... Respondents

**CORAM: HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE DEEPAK ROSHAN**

For the Petitioner:	Mr. Ajit Kumar, Sr. Advocate Mr. Deepak Kumar Dubey, Advocate
For the State:	Mr. Rajiv Ranjan, Advocate General Mr. Ashok Kumar Yadav, Sr. S.C.-I
For Resp. No.6:	Mr. Pandey Neeraj Rai, Advocate

Reserved on: 30.09.2024

Pronounced on: 01.10.2024

M.S. Ramachandra Rao, C.J.(Oral)

I.A. No.10502 of 2024

1) In this writ petition, the petitioner has challenged the cabinet decision dated 06.09.2024 (Annexure 15) and the consequential

proceeding dated 11.09.2024 (Annexure 16) awarding respondent No.6 the contract to supply and affix High Security Registration Plates (HSRPs) on old vehicles registered prior to 2019 in the State of Jharkhand.

2) The petitioner is a registered Association by name All India Motor Vehicle Security Association having registration No.44038/2002 dated 10.10.2002 and is registered under the Societies Registration Act, 1860. It claims to be actively pursuing the HSRP project for the last two decades in various States. It claims that on account of its efforts, certain orders came to be passed in the Supreme Court and in the High Courts and various notifications/circulars/advisories came to be issued by the Ministry of Road Transport and Highways in consonance with the objective of the HSRP Scheme.

3) *Inter alia* petitioner contends that respondent Nos.1 to 5 had taken a decision to authorize respondent No.6 for supply of HSRPs for old vehicles manufactured prior to 01.04.2019 without any *new* tender process, though the Hon'ble Supreme Court in certain decisions rendered by it had directed selection of such vendors/HSRP Manufacturers only through transparent tender process, i.e., *Assn. of Registration Plates v. Union of India*¹, *Maninderjit Singh Bitta v. Union of India*², *Maninderjit Singh Bitta v. Union of India*³, *Maninderjit Singh Bitta v. Union of India*⁴ and *Maninderjit Singh Bitta v Vijay Chhibber*⁵.

¹ (2005) 1 SCC 679

² (2011) 11 SCC 315

³ (2011) 14 SCC 273

⁴ (2012) 4 SCC 568

⁵ (2016) 14 SCC 72

The petitioner also places reliance on Rule 50 of the Central Motor Vehicles Rules, 1989 and the Motor Vehicles (New High Security Registration Plates) Order, 2001.

It contends that it was incumbent on the part of the respondents to invite tenders for selecting the supplier of the HSRPs as laid in the above decisions and that the impugned decision of the Cabinet as well as the consequential proceeding issued by the 3rd Respondent awarding the work of installation of High Security Registration Plates across the State to the 6th Respondent without inviting tenders is arbitrary, unreasonable and violative of Art.14 of the Constitution of India and should be set aside.

4) The learned Advocate General appearing for the respondent Nos.1 to 5 and Mr. Pandey Neeraj Rai, learned counsel appearing for respondent No.6, did not dispute the fact that a *new* tendering process was not followed while awarding the said work to the 6th Respondent.

According to them, during 2011-12, the 6th Respondent had been awarded the said work through a process of tender, but after one month, the said agreement was cancelled on 13.08.2012 for non-compliance of certain terms of the agreement and the 6th Respondent was blacklisted on 04.09.2012. But subsequently, the blacklisting was cancelled by this Court on 31.03.2016 in W.P. (C) No. 4901 of 2012, but the High Court in the order passed therein refused to exercise writ jurisdiction to decide the validity of the termination of the agreement entered into by respondent Nos.1 to 5 with the 6th Respondent and directed the 6th Respondent to work out his remedy in accordance with law in an appropriate proceeding in a proper forum where such question of fact can be agitated.

According to them, the matter was then referred to arbitration and the Arbitral Tribunal on 30th April, 2018, requested the respondent Nos.1 to 5 and the 6th Respondent to have negotiations to resolve their disputes.

According to them, negotiations were successful and the offer made by the 6th Respondent was accepted by the State Government through the decision of the Cabinet taken on 06.09.2024, which culminated in the order passed on 11.09.2024 by the 3rd Respondent.

It is contended that the fee quoted by 6th Respondent for HSRP installation under each category of vehicles was low and the award of the said work to the 6th Respondent is in public interest.

They also contended that list of members of the petitioner-Association has not been disclosed and the writ petition at the instance of the Association in any event, was not maintainable. They sought time to file counter affidavits to the writ petition.

5) The learned Senior Counsel for the petitioner however pointed out that after the termination of the agreement with 6th Respondent on 13.08.2012, the State had issued a fresh Notice Inviting Tenders in November, 2012 and at that time, the rates, which were quoted by the successful tenderer, were less than what the 6th Respondent had quoted. But now the work has been awarded to the 6th Respondent by respondent Nos.1 to 5 on rates of fees which were 2 to 3 times the rates quoted by the 6th Respondent in 2012. The petitioner had placed on record documents which *prima facie* support this plea.

He contended that the Government is the guardian of the finances of the State and is expected to protect the financial interests of the State and the right to choose a person for execution of a work is not an arbitrary power; and while entering into contract, a public authority is not like a private person. He also contended that the whole purpose of awarding the work should not only be to carry forward the objectives for which the HSRP policy was introduced, but also to ensure that the consumers, i.e., the owners of motor vehicles which are transferred, get maximum benefit out of the same, i.e., the fee for installation of the plates should be low and reasonable. He contended that failure to follow the process of tendering vitiates the decision making process and falls foul of the principles laid down in **Tata Cellular Vs. Union of India**⁶. According to him, principles of judicial review laid down therein would apply to the exercise of contractual powers by Government/ its bodies in order to prevent arbitrariness or favouritism.

6) We find force in the contention of learned Senior Counsel for the petitioner.

7) In **Chairman and Managing Director, SIPCOT v. Contromix (P) Ltd.**,⁷ the Supreme Court held that where State largesse is being distributed, normally the process of auction/tender must be followed. It held:

“ **12. In the matter of sale of public property, the dominant consideration is to secure the best price for the property to be sold. This can be achieved only when there is maximum public**

⁶ (1994) 6 SCC 651

⁷ (1995) 4 SCC 595, at page 601

participation in the process of sale and everybody has an opportunity of making an offer. Public auction after adequate publicity ensures participation of every person who is interested in purchasing the property and generally secures the best price. But many times it may not be possible to secure the best price by public auction when the bidders join together so as to depress the bid or the nature of the property to be sold is such that suitable bid may not be received at public auction. In that event, the other suitable mode for selling of property can be by inviting tenders. In order to ensure that such sale by calling tenders does not escape attention of an intending participant, it is essential that every endeavour should be made to give wide publicity so as to get the maximum price.” (emphasis supplied)

8) Similar view was expressed in ***Municipal Council, Neemuch v.***

Mahadeo Real Estate⁸ in the following terms:

“24. We ask the question to us, as to whether directing re-tendering by inviting fresh tenders after giving wide publicity at the national level so as to obtain the best price for the public property, would be in the public interest or as to whether awarding contract to a bidder in the tender process where it is found that there was no adequate publicity and also a possibility of there being a cartel of bidders, would be in the public interest. We are of the considered view that the decision of the Commissioner which is set aside by the High Court is undoubtedly in larger public interest, which would ensure that the Municipal Council earns a higher revenue by enlarging the scope of the competition. By no stretch of imagination, the decision of the State Government or the Commissioner could be termed as illegal, improper, unreasonable or irrational, which parameters only could have permitted the High Court to interfere. Interference by the High Court when none of such parameters

⁸ (2019) 10 SCC 738, at page 748

exist, in our view, was totally improper. On the contrary, we find that it is the High Court, which has failed to take into consideration relevant material.” (emphasis supplied)

9) We are prima facie of the view that had the respondents followed the process of tendering , it is possible that there would have been a tenderer quoting a rate lower than that what was quoted by the 6th Respondent in the negotiation it had with respondent Nos.1 to 5.

10) It is not as if there was an arbitral proceedings between respondents 1 to 5 and 6th respondent had resulted in an award after adjudication of the issues raised therein on merits, and pursuant thereto the respondent Nos.1 to 5 had awarded the work in question to the 6th Respondent. In such an event, their action may not be found fault with, but such is not admittedly the case.

11) In our *prima facie* opinion, it was incumbent on the part of the respondent Nos.1 to 5 to invite tenders for award of the subject work and give it to the lowest tenderer, so that the owners of motor vehicles would get the HSRPs at the best price.

12) We would also point out that in the impugned proceeding, there is no reference to what was the rate prevalent in the market and why the respondent Nos.1 to 5 chose not to invite tenders (which could have produced tenderers quoting lesser prices than the 6th Respondent).

13) Admittedly, in the intervening period between 2011 to 2019, for the installation of High Security Registration Plates for old vehicles, the State did not have any authorised agency.

14) We are satisfied that there is a *prima facie* case in favour of the petitioner-Association, balance of convenience is also in it's favour and an irreparable injury would be caused to public interest if this Court does not intervene at this stage in favour of the petitioner-Association.

15) Therefore, this Writ petition is Admitted.

16) There shall be an interim direction in I.A. No.10502 of 2024 staying the operation/execution and implementation of the cabinet decision dated 06.09.2024 taken vide Annexure 15 and the consequential order dated 11.09.2024 issued vide Annexure 16 of the 3rd Respondent, until further orders.

17) The petitioner's counsel shall file a list of members of the petitioner-Association after serving on the counsel for the respondents within four weeks from today.

18) List this matter on 13th November, 2024.

(M. S. Ramachandra Rao, C.J.)

(Deepak Roshan, J.)

Manoj/-