



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

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Judgment Reserved on: 27.01.2026

Judgment delivered on: 02.02.2026

Judgment uploaded on: *As per digital signature*

+ **W.P.(C) 18585/2025 and CM APPL. 77276/2025, CM APPL. 78566/2025**

GAURAV ENTERPRISES

.....Petitioner

Versus

MUNICIPAL CORPORATION OF DELHI

.....Respondent

Advocates who appeared in this case

For the Petitioner : Mr. Ramesh Singh, Sr. Adv. with Mr. Harshit Singh, Mr. Anant Dev & Mr. Hage Nanya, Advocate.

For the Respondent : Mr. Tushar Sannu, SC for MCD with Mr. Priyankar Tiwari, Advocate and Mr. K.K. Barman, ADC/HQ, Mr. Gaurav Chaturvedi, Administrative Officer, Mr. Anil Kumar, SO/HQ, Mr. Rajesh Kumar, ASO/HQ, MCD
Mr. Rajesh Gogna, Ms. Rebina Rai, Advocates for R-2.

CORAM:

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

JUDGMENT

MANMEET PRITAM SINGH ARORA, J.



CM APPL. 81246/2025

1. This is an application filed on behalf of M/s MI2C Business Private Limited, seeking impleadment as a respondent in the array of parties.
2. It is stated in the application that the applicant is not challenging the tender conditions and only seeks impleadment for safeguarding its interest. It is stated that the applicant, along with the other seven (7) bidders, has technically qualified and is awaiting the opening of the financial bids, which is scheduled for 31.01.2026.
3. In the considered opinion of this court, the rights of the said parties are not in contest in the present petition. The applicant is not a necessary party, and accordingly, the application is dismissed.

W.P.(C) 18585/2025 and CM APPL. 77276/2025, CM APPL. 78566/2025

4. The present petition lays a challenge to bid number GeM/2025/B/6901498 dated 17.11.2025 ('the Bid') for the work of supply of unarmed security guards, security manpower services, security supervisors for a period of three (3) years and one (1) day, with an estimated bid value of Rs. 34,53,79,633/-.
5. The tender stipulates manpower requirements of 260 unarmed security guards, 12 armed security guards (total-272) and 16 security supervisors.
 - 5.1. The petitioner contends that the tender is contrary to the provisions of the Private Security Agencies (Regulation) Act, 2005 ('PSARA') and Rule 10 of the Delhi Private Security Agencies (Regulation) Rules, 2023 ('2023 Rules'), which mandate the deployment of one (1) security supervisor for every six (6) security guards where the guards are deputed at different premises, and one (1) security supervisor for every fifteen (15) security



guards where they are deputed at the same premises. Rule 10 reads as follows: -

10. Provision for Supervisors. — (1) There shall be one supervisor to supervise the work of not more than fifteen private security guards.

(2) In case the private security guards are on security duty in different premises and it is not practical to supervise their work by one supervisor, the agency shall depute more number of supervisors so that at least for every six private security guards there is one supervisor available for assistance, advice and supervision.

(Emphasis Supplied)

5.2. The petitioner also challenges the tender on the ground that, under the Additional Terms and Conditions ('ATC'), the respondent has prescribed parameters for evaluation of technical and financial bids at Annexure-III, stipulating that only those firms securing more than 60% of the total 100 marks would be considered as technically qualified. However, it further provides that where more than one (1) L-1 agency secures identical marks in the technical bid, the work shall be awarded to the bidder with the highest turnover during the preceding five (5) years. It is contended that this condition for awarding work to the bidder with the highest turnover is arbitrary and unreasonable.

6. Mr. Ramesh Singh, learned senior counsel for the petitioner states that the stipulation in Annexure-III of the Bid with respect to award of the contract to the L-1 bidder with the highest turnover is contrary to Clause 4(xiii)(h) of the General Terms and Conditions of GeM 4.0 dated 06.11.2025 ('GeM GTC'), which stipulates that in case of multiple L-1 bidders against a service bid, buyer shall place the contract by selection of a bidder amongst the L1 bidders through a random algorithm executed by the GeM system.



6.1. In this regard, he also places reliance on Clause 15 of the Disclaimer section of the Bid¹, which reiterates the overriding effect of Clause 4(xiii)(h) of the GeM GTC. It expressly provides that any ATC in contravention thereof shall be invalid.

7. In reply, learned counsel for the respondent/Municipal Corporation of Delhi states that the respondent is conscious of the applicability of Rule 10 of the 2023 Rules.

7.1. He states that, according to the respondent, the applicable criterion is one (1) supervisor for every fifteen (15) guards and *not* one (1) supervisor for every six (6) guards as claimed by the petitioner, thereby rendering Rule 10(1) of the 2023 Rules applicable rather than Rule 10(2) as relied upon by the petitioner.

7.2. He states that this is for the reason that the premises in question, i.e. Dr S.P.M. Civic Centre, for which the services are being procured, is a single, centralized premises. He states that the respondent has already requisitioned 16 security supervisors, and as per Rule 10(1), there may be a shortfall of 2 to 3 supervisors, and this shortfall will be made good before awarding the contract.

7.3. He states that any deficiency in security supervisors will be rectified by increasing the number of required supervisors. In this regard, he relies upon the Notes in ATC² stipulated in the Bid, to ensure compliance with Rule 10(1) of the 2023 Rules.

7.4. In response to the petitioner's submission regarding the alleged inconsistency between Clause 4(xiii)(h) of the GeM GTC and the clause

¹ Page 25 of the paper-book.

² Page 40 of the paper-book.



prescribed in the ATC by the respondent³, he states that where multiple bidders quote the lowest price, the selection amongst the L-1 bidders will be carried out in accordance with the mechanism prescribed by the GeM system. Reliance is placed on the stand taken by the respondent in paragraph 24 of the affidavit dated 08.01.2026.

7.5. He further states that the petitioner has not participated in the bidding process and, therefore, lacks locus standi to maintain the present petition.

COURT'S FINDINGS

8. This Court has heard the learned counsel for the parties and perused the records.

9. The petitioner has challenged the Bid document on the following two (2) grounds:

- (i) Non-compliance with Rule 10 of the 2023 Rules.
- (ii) Conflict between the GeM GTC Clause 4(xiii)(h) and the respondent's prescribed ATC Clause⁴ for the award of the contract in case of more than one L-1 qualified bidder.

I. NON-COMPLIANCE WITH RULE 10 OF THE 2023 RULES

10. With respect to non-compliance with Rule 10 of the 2023 Rules, the factual controversy is that though the respondent has called the tender for deployment of 272 security guards, it has requisitioned deployment of only 16 security supervisors. Whereas, as per Rule 10(1) of the 2023 Rules, the respondent would be required to deploy 18-19 security supervisors for 272 security guards and as per Rule 10(2), the respondent would be required to deploy 43-44 security supervisors for 272 security guards.

³ Page 48 of the paper-book.

⁴ Page 48 of the paper-book.



11. The respondent has contended that Rule 10(1) is applicable to the facts of the present case and has disputed the applicability of Rule 10(2). The respondent has, in its affidavit dated 08.01.2026, as well as during the course of arguments, fairly acknowledged that the shortfall in the number of security supervisors would be rectified prior to the award of the contract to the successful bidder, in terms of the clauses appearing as Notes⁵. It has further contended that the tender already provides for 16 security supervisors, and that the shortfall of 2-3 security supervisors would be made good by exercising the increase option under Note (a).

12. This Court, therefore, deems it appropriate to reproduce the Notes⁶ in ATC relied upon by the respondent, which reads as follows:

“iii. Physical number of Manpower Required:

S.No.	Designation	Number of manpower required	Remarks
1.	Security Guard	260	Under Semi Skilled Category
2.	Armed Security Guards	12	Under Skilled Category
3.	Security Supervisor	16	Under Skilled Category
	Grand Total	288	

Notes :

a) The number of manpower required shown above is *indicative/tentative*. The actual quantum may vary. The number of Supervisor/Armed Guards-Gunman/Security Guards can also be *increased/decreased*, subject to future requirement, if any. However the total strength will remain intact. **In case of any change, the Bidder will be informed at least 07 (Seven) days in advance.**

b) The total strength can be *decreased or increased* as per proposal made

⁵ Page 40 of the paper-book.

⁶ Page 40 of the paper-book.



by the bidder and on the decision taken by the department based on actual requirement, considering the financial viability.”

(Emphasis Supplied)

13. The Notes (a) and (b) undoubtedly enable the respondent and the successful bidder to place a proposal for an increase or decrease in the number of security guards as well as the security supervisors. Since both the respondent and the successful bidder are bound in law to comply with Rule 10 of the 2023 Rules, this Court is satisfied that the aforesaid Notes (a) and (b) enable the respondent and the successful contractor to suitably increase the number of security supervisors to be deployed for the 272 security guards in compliance with the 2023 Rules.

14. This Court also notes that Clause (1) of the Buyer Added Bid Specific Terms and Conditions (at internal page 8 of the Bid document) *inter alia* permits/enables the respondent to increase or decrease the contract quantity or contract duration by up to 25%, at the time of issuance of the contract. The respondent is entitled to exercise such variation prior to awarding the contract to the successful bidder. The said Clause corresponds to Note (a) referred to hereinabove. The Clause (1) reads as follows: -

“Generic

OPTION CLAUSE: The buyer can increase or decrease the contract quantity or contract duration up to 25 percent at the time of issue of the contract. However, once the contract is issued, contract quantity or contract duration can only be increased up to 25 percent. Bidders are bound to accept the revised quantity or duration”

(Emphasis Supplied)

15. The respondent has stated that since it is a single premises, Rule 10(1) of the 2023 Rules is applicable to this bid and not Rule 10(2).

The said submission of a single premises was disputed by the petitioner during oral arguments, contending that the precincts in question are spread



over a vast area comprising the deployment of personnel over several buildings. This Court is, however, not inclined to accept the submission of the petitioner. The respondent is the buyer and has taken its stand on oath with respect to the premises in question being a single unit, and this Court would rather rely upon the stand of the respondent, which is the municipal authority, an instrumentality of the State.

16. In any event, the respondent has acknowledged its statutory obligation to comply with the 2023 Rules, including Rule 10, in both letter and spirit prior to awarding the contract to the successful bidder. Accordingly, the ground alleging a deficiency in the Bid document does not survive for the purpose of challenging the Bid. The respondent is therefore directed to ensure that, prior to awarding the contract; it will ensure that the mandatory number of security supervisors is requisitioned for deployment.

II. INCONSISTENCY BETWEEN GEM GTC CLAUSE 4(XIII)(H) AND THE RESPONDENT'S PRESCRIBED ATC CLAUSE WITH RESPECT TO AWARD OF CONTRACT TO THE L1 BIDDER

17. With regard to the conflict between GeM GTC Clause 4(xiii)(h) and the ATC clause prescribed by the respondent⁷, this Court notes the respondent's submission that the GeM GTC Clause 4(xiii)(h) will supersede the said ATC clause.

18. However, for the sake of clarity, this Court takes note of the relevant clauses. Clause 4(xiii)(h)⁸ of the GeM GTC is reproduced as under:

"(h) In case, two or more acceptable bidders are found to have quoted identical lowest bid price, forced Reverse Auction shall be conducted for the required Goods among all technically qualified bidders with 50% elimination rule as per clause 13(u)(1) in case of bids for Goods.

Whereas in case of Service bids, if the multiple L-1 bidders have quoted the

⁷ Page 48 of the paper-book.

⁸ Page 131 of the paper-book.



lowest allowed price for that service, Buyer shall place the Contract by selection of a bidder amongst the L-1 bidders through a Random Algorithm executed by GeM system.”

(Emphasis supplied)

The second part of the clause pertaining to *service bids* is relevant to the issue at hand.

19. The aspect that the second part of Clause 4(xiii)(h) will supersede any contravening clause prescribed by the buyer/respondent in the ATC is also categorically stipulated in the Disclaimer section at Clause 15 of the Bid⁹, which reads as follows:

“DISCLAIMER

The additional terms and conditions have been incorporated by the Buyer after approval of the Competent Authority in Buyer Organization, whereby Buyer Organization is solely responsible for the impact of these clauses on the bidding process, its outcome, and consequences thereof including any eccentricity/restriction arising in the bidding process due to these ATCs and due to modification of technical specifications and/or terms and conditions governing the bid. If any clause(s) is/are incorporated by the Buyer regarding following, the bid and resultant contracts shall be treated as null and void and such bids may be cancelled by GeM at any stage of bidding process without any notice: -

....

15. Any ATC clause in contravention with GeM GTC Clause 4 (xiii)(h) will be invalid. In case of multiple L1 bidders against a service bid, the buyer shall place the Contract by selection of a bidder amongst the L-1 bidders through a Random Algorithm executed by GeM system.”

(Emphasis supplied)

20. A conjoint reading of Clause 4(xiii)(h) of GeM GTC and Clause 15 of the Disclaimer section of the Bid makes it unequivocal that the said Clause 4(xiii)(h) will have an overriding effect on any contrary term prescribed by the buyer/respondent in the ATC.

⁹ Page 25 of the paper-book.



21. The ATC Clause¹⁰ prescribed by the respondent in Annexure-III to the ATC, which, as per the petitioner, is contrary to GTC Clause 4(xiii)(h), reads as under:

“The work will be awarded to the responsive L-1 agency. In case, the financial bid of more than one firm / agency / bidder is same as responsive L-1, then the work will be awarded to the firm/agency/bidder, who amongst them, secures maximum marks in Technical Evaluation. Further, in case more than one agency have similar marks in technical bid, the bidder having highest turnover during last 5 financial years (aggregate of all three years), shall be treated as successful L-1 bidder and the work shall be awarded to that firm/agency/bidder.”

(Emphasis supplied)

22. It is contended by the petitioner that due to the nature of the Bid (i.e., security services), empirical data show that there is almost always more than one (1) L-1 bidder, as parties submit competitive bids with the price components objectively broken down. It is stated that, in these facts, awarding the contract to the L-1 bidder, who has a higher turnover is arbitrary and would lead to a monopoly. The petitioner contends that the award of the contract should instead be as per Clause 4(xiii)(h) prescribed by the GeM GTC, which is fair and reasonable.

23. This Court has perused the ATC Clause in Annexure-III as prescribed by the respondent and finds that the same is *ex facie* inconsistent with Clause 4(xiii)(h) of the GeM GTC. Such inconsistency cannot be sustained in view of the express bar contained in the Disclaimer section of the Bid by GeM, which, as noted above, explicitly provides that Clause 4(xiii)(h) of the GeM GTC shall prevail over and supersede any contrary or inconsistent clause. In fact, if the respondent awards the contract in contravention of Clause 4(xiii)(h), it shall lead to the resultant contract being treated as null

¹⁰ Page 48 of the paper-book.



and void. We also find merit in the submission of the petitioner that the criteria in the ATC clause of awarding the contract to the bidder, who has the highest turnover, is arbitrary, as once all the L-1 bidders have technically qualified, the criteria of turnover loses relevance. The GeM GTC clause is far more reasonable.

24. We, therefore, observe that in case there is more than one (1) qualified L-1 bidder, the respondent shall award the contract strictly in accordance with Clause 4(xiii)(h) of the GeM GTC only, and it will not award the contract as per the process contemplated in Annexure III (referred to above). This direction also accords with and is reinforced by the stand taken by the respondent in its affidavit at paragraph 24.

III. OBJECTION TO MAINTAINABILITY OF THE WRIT PETITION

25. The respondent has raised an objection to the maintainability of this writ by the petitioner on the ground that the petitioner himself has not participated in this Bid and, therefore, has no locus.

26. This Court, however, notes that the two (2) issues raised by the petitioner concerning the deficiencies in the Bid stand duly substantiated. The raising of such issues by the petitioner in this writ petition does not undermine the tender process; rather, it facilitates strict compliance with the applicable 2023 Rules, conditions, and the GeM framework governing the Bid. It thereby ultimately operates in aid of the respondent as it ensures conformity with law, thereby reducing the scope for ambiguity and averting potential disputes or litigation at a later stage with both the contractor and the GeM portal.

27. In these circumstances, the present petition, along with pending



2026-DHC-808-DB



applications (if any) are disposed of by binding the respondent to the stand taken in its affidavit, as well as to the directions issued by this Court.

28. No order as to costs.

MANMEET PRITAM SINGH ARORA, J

V. KAMESWAR RAO, J

FEBRUARY 02, 2026/tg/aa