

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.2470 OF 2016
(Arising out of SLP (C) No. 36061/2013)

SCORE INFORMATION TECHNOLOGIES LTD. APPELLANT

VERSUS

SRIYASH TECHNOLOGIES LTD. & ORS. RESPONDENTS

J U D G M E N T

KURIAN, J.

1. Leave granted.
2. The appellant herein was the respondent No.4 in Writ Petition No.1087/2007 on the file of the High Court of Uttarakhand at Nainital. That writ petition was filed by respondent No.1 herein, challenging the award of project of Smart Card based driving licence and vehicle registration certificate. Though it may not be necessary to go into the facts in detail, still it is significant to note that respondent No.3 in the Writ Petition, namely, HILTRON is a Public Sector Undertaking, with whom the State of Uttarakhand had entered into an MOU for providing, facilitating and marketing information technology solutions within the State of Uttarakhand. HILTRON was also nominated as the Information Technology and Communication service provider for various

Departments, Semi-Government Departments and Institutions, etc. HILTRON and Transport Commissioner of Uttarakhand entered into an MOU with regard to the project of Smart Card based driving licence and vehicle registration certificate. HILTRON in turn nominated the appellant herein for execution of the project work. That MOU with HILTRON was challenged by the respondent No.1 herein (petitioner before the High Court). According to them, the award of the project to HILTRON on the basis of an understanding between the Transport Commissioner and the undertaking was impermissible under law, being violative of Article 14. Therefore, necessarily any arrangement made by the HILTRON with any other party would also have to be set at naught. The learned Single Judge dismissed the Writ Petition holding that there was no illegality on the part of the State and the Transport Commissioner in getting the work of Smart Card based driving licence and vehicle registration certificate, etc. done through HILTRON with the assistance of the appellant herein. The above conclusion of the learned Single Judge was based on the finding that the writ petitioners were not competitors qualified for execution of the project and hence the intra court-before the Division Bench.

3. Though, there are serious disputes on those aspects as to whether the writ petitioners were qualified or not, ultimately what the Division Bench did is only to set aside the arrangement between the Transport Commissioner and the

HILTRON. In the impugned judgment dated 24.07.2013, the Division Bench held as under:

" The fact remains that it is not necessary for the State to invite tender in all cases. The fact remains that it is not necessary for the State to buy a product at the lowest price. The State has a choice to buy a better product at a higher price. But the law is settled that whatever the State is doing, the same must be transparent. Unless the intention to enter into such a contract is made public, there cannot be any transparency in the entering into that contract. The process of finalizing the contract being shrouded with thick blackness, the whole thing is bad."

4. Accordingly, the appeal was allowed and the writ petition was also allowed setting aside the arrangement made by the Transport Commissioner with the HILTRON-Respondent No.3 in the High Court.

5. HILTRON is not before this Court in challenging the judgment. The judgment is challenged only by respondent No.4 in the writ petition who had entered into an MOU with HILTRON for execution of the project work.

6. Shri Shyam Divan, learned senior counsel appearing for the appellant contends that the learned Single Judge having found that the writ petitioners had no locus-standi and thus, dismissed the writ petition, the Division Bench was not justified in addressing the issue on a different angle. We find it difficult to appreciate this contention. Whether the

writ petitioners were qualified for the execution of the project work is to be seen only when the qualification is to be addressed by the quarters concerned while awarding the work.

7. Be that as it may, the MOU was entered into between the parties in the year 2006 and since one decade has elapsed, we are of the view that the whole issue must be addressed afresh by the State, in case it is not already addressed.

8. In public interest, we are also of the view that the State should take steps, if not already taken, for execution of the project, in accordance with law expeditiously.

9. With the above observations, this appeal is disposed of with no order as to costs.

10. However, we make it clear that this order shall not stand in the way of the appellant to work out his grievances with HILTRON in appropriate proceedings.

.....J.
[KURIAN JOSEPH]

.....J.
[ROHINTON FALI NARIMAN]

NEW DELHI;
MARCH 03, 2016