

## News

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### Why the Delhi High Court invalidated the IRCTC's ₹56 crore catering contract

The Court determined that the contractor had breached important tender requirements meant to preserve anti-corruption principles by failing to disclose a criminal case that was still pending against them.



A ₹56 crore catering contract given to RK Associates and Hoteliers Pvt. Ltd. by the Indian Railway Catering and Tourism Corporation (IRCTC) was revoked by the Delhi High Court on April 22 for neglecting to report ongoing criminal cases.

According to the Court, this kind of non-disclosure was against important tender requirements

meant to preserve anti-corruption values.

By awarding the contract notwithstanding the bidder's refusal to reveal violations that affected its credibility, a division bench consisting of **Chief Justice Devendra Kumar Upadhyaya and Justice Tushar Rao Gedela** determined that IRCTC had violated its own bidding rules.

*"The procedure used to grant the Letter of Award to Respondent No. 2 (RK Associates) is flawed since it violated the terms of the tender documents... The Court ruled that such a failure is definitely not consistent with the fairness principle in public bids.*

The Letter of Award (LoA) to RK Associates (the victorious bidder with a price of ₹56 crores) was contested on April 17, 2024 by MS Deepak and Co., a competing bidder with a bid of ₹41 crores.

RK Associates was accused by Deepak and Co. of failing to disclose a pending case against railway authorities and various private licensees, including RK Associates, that was filed in 2015.

The Prevention of Money Laundering Act (PMLA) and the Prevention of Corruption Act were used to investigate the case.

Deepak and Co. further stated that even though the Supreme Court had halted the criminal proceedings, RK Associates was still obligated to notify the IRCTC of the case's status in accordance with Sections 2(g) and 3 of the Integrity Pact.

These grounds were deemed persuasive by the Court, which firmly rejected the IRCTC's argument that disclosure was only necessary for offenses committed during the previous three years.

"We believe that the "past three years" time frame in Section 5 cannot be imported or interpolated to Section 3... The bidder is required to reveal all of these violations, regardless of when they are alleged to have taken place,

the Court stated.

It further underlined that IRCTC was denied the chance to determine whether RK Associates'

dependability or trustworthiness was in doubt because of this non-disclosure.

"If the criminal history for the previous three years had been revealed as required, the IRCTC would have been able to decide whether or not RK Associates' "reliability and credibility" were in doubt, and the tender process could have/should have continued based on that determination. But in this particular instance, we discover that there is no disclosure,"

the statement stated.

The Court also emphasized the duty of public bodies to maintain transparency.

*"Every effort must be made to eliminate any possibility of violation that could affect the anti-corruption strategy,"* it continued.

In addition, the Court cited a Division Bench decision from the Calcutta High Court in *Damodar Valley Corporation v. BLA Projects*, which upheld the idea that past offenses—even those that occurred more than three years ago—must be revealed when credibility is at risk.

However, the Court dismissed the petitioner's argument that IRCTC had committed an illegal act by permitting RK Associates to add missing witness signatures to the signed Integrity Pact after opening financial bids, thereby correcting a defect discovered during its submission.

*"The Integrity Pact was properly compliant when it was first filed by the tenderer with the signatures of its authorized signatory. The Court explained that it was premature to need witness signatures."*

The IRCTC's April 2024 Letter of Award in favor of RK Associates was subsequently revoked by the Court.

The IRCTC received instructions to start the tender process over and finish it in three months.

The Court further stated that RK Associates will continue to operate until a new contract is granted in order to avoid service interruptions.

**Senior Attorney Kirti Uppal** represented the petitioners, along with attorneys Himanshu Pathak, Riya Gulati, Amit Singh, and Archisha Satyarthi.

**Solicitor General Tushar Mehta** represented the IRCTC, along with Advocates Saurav Agrawal, Anshuman Chowdhury, and Aarya Bhat.

Advocates Jasmeet Singh, Gautam Khazanchi, Mahinder Singh Hura, Saif Ali, Pushpendra S. Bhadoriya, Vijay Sharma, Riya Kumar, Rajat Sinha, Pranav Menon, Vaibhav Dubey, and Saurav represented RK Associates, which was led by **Senior Advocates Sandeep Sethi** and **Jayant Mehta**.

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