

**IN THE COURT OF Mr. ARVIND KUMAR  
SPECIAL JUDGE, CBI-01, NEW DELHI DISTRICT  
PATIALA HOUSE COURTS, NEW DELHI**

**CC No. 06/2012  
ID No. 02403R0066802012**

**RC NO. : 217 2011 A0002  
Branch : CBI/ACU-IV/New Delhi  
U/S : 120B IPC R/W 420 IPC  
13(2) r/w 13(1)(d) of P C Act, 1988**

**CBI**

**..... Complainant**

**Versus**

- 1. R.S. Thakur  
the then Superintending Engineer, NDMC  
S/o Mr. Sher Singh  
R/o Flat No. 84, Navyug Apartments, Sector-9,  
Rohini, Delhi – 110085.**

**Permanent :-**

**Village: Hayore, Post : Awha Devi,  
Tehsil: Bhoranj, Distt.: Hamirpur,  
Himachal Pradesh.**

2. **V.K. Gulati**  
the then Executive Engineer, NDMC  
S/o Mr. C.P. Gulati,  
R/o C-379, SFS Flats, Triveni Apartments,  
Sheikh Sarai, Phase-I, New Delhi – 110017.
3. **Raja Aederi**  
Director, M/s Raja Aederi Consultants Pvt. Ltd., Mumbai  
S/o Mr. Sanjiv Rao,  
R/o South Olme, Convent Avenue, Santa Cruze (West)  
Mumbai – 400015
4. **Uday Shankar Bhat**  
Director, M/s Raja Aederi Consultants Pvt. Ltd., Mumbai  
S/o Mr. Ramakant Bhat,  
R/o G-98, Oriental Villa, Sushant Lok-III  
Gurgaon, Haryana – 122003.
5. **M/s Raja Aederi Consultants Pvt. Ltd., Mumbai**  
(Through its Director Uday Shankar Bhat)  
having office at 7<sup>th</sup> floor,  
Mahendra Tower, Pandurang Budhkar Marg,  
Worli, Mumbai – 400018.

..... Accused

<b>Date of Institution</b>	<b>:</b>	<b>28.09.2012</b>
<b>Date reserved for judgment</b>	<b>:</b>	<b>11.04.2017</b>
<b>Date of Judgment</b>	<b>:</b>	<b>08.05.2017</b>

**Present :** Mr. V.K. Ojha, Ld. PP for CBI.  
Accused no.1 R.S. Thakur in person along with  
Ld. Counsel Mr. B.P. Singh and Mr. Puneet Gaba.  
Accused no.2 V.K. Gulati in person.  
Accused no.3 Raja Aederi in person.

Accused no.4 Uday Shankar Bhat in person and is  
also representing accused no.5 M/s Raja Aederi  
Consultants Pvt. Ltd.  
Mr. Anindya Malhotra, Ld. Counsels for accused no.2,  
3, 4 and 5.

### **J U D G M E N T : -**

1. Briefly stating, the case of the prosecution is as under :-
  - (i) Talkatora and Shivaji Stadium were selected as Boxing Sports Venue and the Competition & Training Venue for Hockey respectively for 19th Common Wealth Games (CWG) to be held from 03rd to 14th October, 2010 and required facilities were to be created/provided at Talkatora Indoor Stadium and Shivaji Stadium. R.S. Thakur, accused no. 1 was deputed as Project Leader for the said projects of NDMC. Mr. R.S. Thakur invited applications on behalf of NDMC through advertisement in newspapers for Expression of Interest (EOI) for upgradation/renovation of Talkatora Indoor Stadium and Shivaji

Stadium from reputed registered Architects/Architectural firms as per Council of Architects Act. For empanelment following information were required from the intending applicant Architects :- (a) Similar project costing above Rs. 30 Crore executed in past 3 years; name of client, scope of services, value of work and time period. (b) Number of Architects, Planners and Designers employed by the applicant. (c) Any other related information.

(ii) Six companies including M/s Raja Aederi Consultants Pvt. Ltd. made application and in his Note R.S. Thakur, accused no.1, submitted names of two companies namely M/s Consulting Engineering Services (India) Pvt. Ltd. for Talkatora Stadium and M/s Kothari & Associates for Shivaji Stadium as suitable and recommended that they may be considered for the work of aforesaid stadiums. M/s Raja Aederi Consultants Pvt. Ltd. was not found suitable as it did not have adequate experience and manpower to undertake the aforesaid work as it did not mention the name of any stadium project and also did not claim to have designed any stadium in the past.

(iii) On the note of R.S. Thakur, Mr. Sanjib Sen Gupta, Chief Architect, on 05.01.2006, proposed a Sub-committee to be constituted for arriving at the final consultant. The Sub-

committee consisted of (a) Mr. M.M. Rana, the then Adviser Consultant of NDMC as Chairman, (b) Mr. Sanjib Sengupta, Chief Architect, Member, (c) Mr. H.S. Dogra, ADG, CPWD, Member, (d) Mr. V.K. Gulati, EE, Member, (e) Mr. R.S. Thakur, Project Leader, Convenor, (f) Mr. V.P. Gupta, SE, NDMC, Member

(iv) The sub-Committee decided that (a) The details received from 6 Architects/applicants were not adequate. (b) Fresh bid should be called for, after preparing proper bid documents consisting of scope of work and services to be provided by the consultant. (c) Separate bid should be called for each stadium.

(v) On 17.04.2006, R.S. Thakur submitted his Note containing suggestion of Mr. M.M. Rana, H.S. Dogra, K.K. Mutreja and Mr. Sanjib Sen Gupta. Approval of the Chairman, NDMC was sought for this Note by K.K. Mutreja vide his Note dated 18.04.2006. The Chairman gave his approval to the bid documents with regard to Talkatora Stadium while with regard to Shivaji Stadium, Chairman had issued instructions, which were made part of the scope of work of Shivaji Stadium and bid documents of both the stadia were published in the newspaper on 24.04.2006.

(vi) The applications for Shivaji Stadium were invited from reputed registered Architects/Architectural firms/Consortiums with Council of Architecture under the provision of Architects Act to provide Architectural consultancy/services for development of a training venue for Hockey event with regard to Common Wealth Games – 2010 to be held in Delhi. The existing Shivaji Stadium was required to be redeveloped for training venue of hockey event (CWG:2010) by making addition/alteration, up-gradation, improvement to existing stadium, various existing services and area around stadium. The eligibility criteria was as under :-

a) Prior expertise and involvement in developing/upgrading competition sports venue for hockey etc. as per norms of Common Wealth Games Federation/International Sports Federation.

b) The consultant should have sufficient number of technical and administrative employees for proper execution of work. The scope of work includes architectural work, civil/electrical engineering work, structural work, electronic, air-conditioning, communication and landscaping work. Consultant shall supply list of technical staff keeping scope of work in mind for better appreciation by owner department.

(c) Financial strength of consultant shall be adequate to handle the project. The consultant shall submit his latest financial return duly vetted by Chartered Accountant.

(d) Three similar completed works of consultancy services costing not less than 10 crores in last five years.

Or

Two similar completed works of consultancy services costing not less than 15 crores in last five years.

Or

One similar completed work of consultancy services costing not less than 20 crores during last five years.

(vii) In case of Takatora Stadium, the tender conditions were by and large the same as that of conditions for the Shivaji stadium except the change in condition (a) of the eligibility criteria where in place of the experience of hockey, the experience of designing a Boxing Stadium was required and the cost/value of similar nature of work done in past was higher by Rs.5.0 Crores in each case to the condition as mentioned in the eligibility criteria at para (d) above.

(viii) It is further stated that accused no.5, M/s Raja Aederi

Consultants Pvt. Ltd. submitted two separate applications dated 08.05.2016 to V.K. Gulati, the then Executive Engineer, NDMC. In both the applications, accused no.5, M/s Raja Aederi Consultants Pvt. Ltd. dishonestly and fraudulently claimed to have completed 18 projects including the stadium projects with M/s Sterling Engineering Consultancy Services Pvt. Ltd., Mumbai, which was a structural engineering company and not an architectural consultant. The accused no.5, M/s Raja Aederi Consultants Pvt. Ltd. falsely claimed that M/s Sterling Engineering Consultancy Services Pvt. Ltd. would be its consortium partner and no documents was found to have been enclosed with the applications. Mr. K.S. Bhardwaj the then Auditor, NDMC, pointed out and brought his fact to the knowledge of accused no.2, V.K. Gulati, however, accused no.2, V.K. Gulati passed instruction to Mr. B.P. Verma, the then Accountant that the tender documents should be issued to all intending bidders who did not submit the documents to prove their eligibility along with applications for taking tender documents.

(ix) On 23.05.2006, accused no.2, V.K. Gulati, in the presence of B.P. Verma, the then Accountant, K.S. Bhardwaj, the then Auditor and the representatives of bidders, M/s Kothari & Associates, M/s Architectural Grids and M/s Raja Aederi

Consultants Pvt. Ltd. opened the bids and out of these three companies M/s Raja Aederi Consultants Pvt. Ltd. and M/s Kothari & Associates were found eligible. M/s Architectural Grids did not submit any document along with its bid documents, hence, its bid could not be considered, hence, was rejected. It is stated that as per practice, the Accounts Section, on opening of tender, prepares and put up the comparative statement to the Competent Authority through Notice Inviting Tender Authority but in this case, accused no.2, V.K. Gulati himself got comparative statements prepared without showing the tender documents to B.P. Verma and K.S. Bhardwaj. Accused no.5, M/s Raja Aederi Consultants Pvt. Ltd. was shown eligible for both tenders on the basis of experience of designing National Sports Club of India (NSCI), Worli, Mumbai.

- (x) It is stated that accused no.5, M/s Raja Aederi Consultants Pvt. Ltd. dishonestly and fraudulently submitted false information in Appendix A and B of its bid documents regarding stadium project, designed and completed by it in the last five years. It is submitted that NSCI commenced its project in January, 2004 and it was not completed even after filing of bid documents by accused no.5, M/s Raja Aederi Consultants Pvt. Ltd. in the year 2006 and the part Completion Certificate for its first phase was issued by Bombay Municipal Corporation in

the year 2009 and the Completion Certificate was issued in May, 2012.

(xi) It is further alleged that accused no.3, Raja Aederi and accused no.4, Uday Bhat on behalf of M/s Raja Aederi Consultants Pvt. Ltd. did not mention anything about Memorandum of Understanding (MOU) dated 18.05.2006, executed between M/s Raja Aederi Consultants Pvt. Ltd. and M/s Sterling Engineering Consultancy Services Pvt. Ltd. through Mr. Kamal Hadker. According to this MOU M/s Sterling Engineering Consultancy Services Pvt. Ltd. was to work as a Structural Engineer. M/s Sterling Engineering Consultancy Services Pvt. Ltd. never authorized accused no.5, M/s Raja Aederi Consultants Pvt. Ltd. to use experience of M/s Sterling Engineering Consultancy Services Pvt. Ltd.. In its bid documents, M/s Raja Aederi Consultants Pvt. Ltd. claimed the turnover of M/s Sterling Engineering Consultancy Services Pvt. Ltd. for Mumbai, for last five years in Appendix-F and it did not claim that it had got all the facilities in house as required in para-b of eligibility criteria and submitted that it would get the work done.

(xii) It is further alleged that the information/documents of M/s Sterling Engineering Consultancy Services Pvt. Ltd. were taken

from Mr. Kamal Hadkar by accused no.5, M/s Raja Aederi Consultants Pvt. Ltd. and same were used by it and by accused no.4, Uday Bhat in the bid documents of accused no.5, M/s Raja Aederi Consultants Pvt. Ltd. without the consent of Mr. Kamal Hadkar.

(xiii) It is further alleged that accused V.K.Gulati did not mention anything about the above said manipulation and false information in the bid documents of accused no.5, M/s Raja Aederi Consultants Pvt. Ltd. on the Noting File or in the Tender Opening Register of NDMC and thus, he in conspiracy with M/s Raja Aederi Consultants Pvt. Ltd. through accused no.4, Raja Aederi and accused no.3, Uday Bhat, deliberately suppressed the material facts in order to cause benefit to accused no.5, M/s Raja Aederi Consultants Pvt. Ltd.

(xiv) On 29.05.2006, accused no.2, V.K. Gulati falsely submitted a Note to Project Leader, accused no.1., R.S. Thakur, that only two companies/firms, accused no.5, M/s Raja Aederi Consultants Pvt. Ltd. and M/s Kothari & Associates were meeting the eligible criteria and on this, accused no.1, R.S. Thakur, Project Leader, knowingly accepted the false claim of accused no.2, V.K. Gulati and sought approval of Board of Assessors. It is alleged that accused no.1, R.S. Thakur

prepared two separate statements for each stadium and submitted to the Board of Assessors and he had deliberately and falsely shown that M/s Raja Aederi Consultants Pvt. Ltd. was fulfilling all eligibility criteria and had got requisite experience of designing and completing stadium in last five years and similar was the position of accused no.2, V.K. Gulati.

(xv) It is alleged that the financial bids of the above two bidders for both stadia were opened on 23.06.2006 by accused no.2, V.K. Gulati. On the basis of the lower financial bid for each stadium, accused no.5, M/s Raja Aederi Consultants Pvt. Ltd. got higher points and therefore, it was appointed as Architect consultant to NDMC for both stadia and the approval to this effect was granted by the Chairperson, NDMC on 27.06.2006. Two separate agreements between NDMC and accused no.5, M/s Raja Aederi Consultants Pvt. Ltd. for each stadium were executed on 16.10.2006. M/s Sterling Engineering Consultancy Services Pvt. Ltd. was not a party to these agreements and it had done no work in any of the above stadia.

(xvi) It is alleged that the investigation has further disclosed that on the requirement of the Event Knowledge Service (EKS), the International Consultant appointed by the Organizing

Committee (OC) of CWG-2010, the scope of work in both stadia was enhanced to the extent of constructing ground floor plus four storey with basement in each stadium. The additional/enhanced works in both the stadia were awarded to accused no.5, M/s Raja Aederi Consultants Pvt. Ltd., without going for fresh/re-tender, after the resolution dated 5.11.2007 of the Council, NDMC due to time constraints. Accused no.2, V.K. Gulati and accused no.1, R.S. Thakur, who knew that accused no.5, M/s Raja Aederi Consultants Pvt. Ltd. did not qualify initially, ought to have examined critically the claim of accused no.5, M/s Raja Aederi Consultants Pvt. Ltd. with regard to their financial and technical capability instead of accepting it on its face value at the time of grant of additional work for aforesaid stadium.

(xvii) It is alleged that accused no.5, M/s Raja Aederi Consultants Pvt. Ltd. had got the work like structural designing, accoustic, auditorium etc. done in both stadia from outside consultants. Though, the appointment of such consultants was against the conditions of NITs for both stadia, however, clause 7.02 of the Agreement dated 16.10.2006 permits appointment of specialized consultants from outside. It is also revealed that such services are normally taken by the Architects from outside consultants. It is also disclosed that M/s Sterling Engineering

Consultancy Services Pvt. Ltd. did not execute any work in the said stadia and in place of it, M/s Mahindra Raj Consultants was appointed to prepare structural drawings for both stadia.

2. After completing investigation, charge-sheet was filed against accused no.1, R.S. Thakur, accused no.2, V.K. Gulati, accused no.3, Raja Aederi, accused no.4, Uday Shankar Bhat and accused no.5, M/s Raja Aederi Consultants Pvt. Ltd. (through its Director), for the offence punishable under Section 120B IPC r/w 420 IPC and 13 (2) r/w 13 (1) (d) of Prevention of Corruption Act, 1988.

3. It is further alleged that the evidence collected during investigation against V.P. Gupta, K.K. Mutreja, H.S. Dogra and Sarat Bhatia prima facie were not sufficient to charge them, hence, they were not charge-sheeted.

4. It is stated that since, accused no.1 R.S. Thakur was a public servant at the time of commission of alleged offence, necessary sanction under Section 19 of Prevention of Corruption Act, 1988, was obtained qua him by the CBI.

5. Vide orders dated 04.09.2014, Learned Predecessor of this Court held that prima facie case is made out against accused

no.1, R.S. Thakur and accused no.2, V.K. Gulati, for the offences under Section 13 (2) and Section 13 (1) (d) of P.C. Act and further held that prima facie case is made out against accused no.3, 4 and 5 for the offence under Section 420 IPC and that prima facie case is made out against accused no.1, 2, 3, 4 and 5 under Section 120B read with Section 420 IPC and 13 (2) read with Section 13 (1) (d) of P C Act.

6. On 04.09.2014, formal charges were framed against the accused persons, wherein, they pleaded not guilty and claimed trial.

7. In order to bring home the guilt of the accused, prosecution has examined as many as following 14 witnesses :-

PW-1 Mr. Krishan Singh Bhardwaj, Sr. Assistant, Internal Audit Branch. He was involved in the process of issuing of bids and preparation of comparative statement.

PW-2 Ms. Kiran Sachdeva, Stenographer. She identified signature of accused no2, V.K. Gulati on different Note-sheets, comparative statement of Technical Bid and Financial Bid.

- PW-3 Ms. Sharda Arora. She was Personal Assistant of accused no.1, R.S. Thakur. She identified signature of accused R.S. Thakur on bid documents and Agreement dated 16.10.2006, between NDMC and accused no.5.
- PW-4 Mr. Anant Kumar, Chief Engineer, NDMC. He deposed about the conditions of NIT, appointment of Specialized Consultant as per Agreement. He also stated about the process of evaluation of Technical Bid done by different officials of NDMC and about the procedure in two bid systems involving technical bid and commercial bid.
- PW-5 Mr. Shakeb Akhtar Khan, Superintending Engineer, Civil, NDMC. He exhibited expression of interest for up-gradation of Talkatora Indoor Stadium and Shivaji Stadium as Ex. PW-5/B and Ex. PW-5/C, comparative statement for Empanelment of Architects, Ex. PW-5/D. He exhibited different Note-sheets

regarding approval of Note by Chairperson for fixing date of Presentation before Board of Assessors by applicants. PW-5 has also exhibited original Agreement along with Bid documents, memorandum of Understanding between Kamal Hadkar, Director of M/s Sterling Engineering Consultancy Services Pvt. Ltd. and Director of M/s Raja Aederi Consultants Pvt. Ltd. and Bid documents.

PW-6      Mr. T.C. Krishnaswamy, CEO, National Sports Club, Mumbai. He stated about appointment of M/s Raj Pishori & Associates and M/s Shashi Prabhu & Associates as Architectural Consultants for NSCI Project.

PW-7      Mr. Amol Prabhu, Partner, M/s Shashi Prabhu & Associates. He stated about appointment of his Company as Architectural consultant in NSCI project and their appointing M/s Sterling Engineering Consultancy Services Pvt. Ltd. as Structural Consultant.

- PW-8      Mr. Kamal Hadker, Managing Director, M/s Sterling Engineering Consultancy Services Pvt. Ltd. He deposed about Memorandum of Understanding executed between his company and M/s Raja Aederi Consultants Pvt. Ltd. and about the work performed by it in NSCI Project.
- PW-9      Mr. Braham Parkash Verma, Assistant Account Officer, Vidyut Bhawan, NDMC. He stated about preparation of comparative statements of technical bids.
- PW-10     Ms. Meena Bala, P.A. to accused no.1, R.S. Thakur, the then Superintending Engineer (Public Health). She identified signatures of accused no.1, R.S. Thakur on different Note-sheets.
- PW-11     Mr. Jai Singh Choraria, the then Honorary Regional Secretary in the National Sports Club of India, Mumbai. He exhibited letter sent by NSCI to CBI as Ex. PW-11/A.

- PW-12      Mr. Rattan Singh the then Deputy Director, Establishment, NDMC. He exhibited letter sent to CBI furnishing some details as Ex. PW-12/A.
- PW-13      Mr. Lal Chhandama, Deputy Secretary, Government of India, Ministry of Defence. He exhibited the sanction for prosecution of accused no.1, R.S. Thakur as Ex. PW-13/A.
- PW-14      DSP Surender Malik, IO of the case.

8.            The accused persons were examined U/S 313 Cr.PC. Accused no.1 R.S. Thakur stated that he, being Superintending Engineer, had no role in opening of tender in present case. Accused no. 1 further stated that he has neither proposed nor rejected any firm's name and the details of the six firms during EOI stage were placed before Sub-Committee with a request that detail may be examined and name of Consultant may be recommended for approval of empowered Committee and the Sub-Committee in its meeting on 06.03.2006, proposed for calling fresh bid and for preparing bid documents. Accused no.1 also stated that guidelines of CPWD Manual are applicable only to civil work and that too when specifically

asked for as per NIT/tender clause. Accused no.1 further stated that in NIT/bid documents of both the stadiums, there was no clause of experience certificate for consultancy work. Accused no.1 further stated that charge-sheet is based on unfair and biased investigation and is not based on true facts. Accused no.1 stated that Board of Assessors had examined the suitability of two bidders namely M/s Raja Aederi Consultants Pvt. Ltd. and M/s Kothari & Associates on four different parameters in respect of both the stadiums. Accused no.1 stated that due process was followed and technical bid was evaluated by seven different persons, who were expert in their fields and appointment of Architect was a collective decision of Sub-Committee and Board of Assessors.

9. Accused no.2, V.K. Gulati stated that bid documents were issued in a routine manner after the application was seen by Mr. B.P. Verma. The CPWD manual are applicable for civil work and that too when specifically asked for as per NIT and during the year 2006, there were no guidelines for appointment of Consultant for consultancy work either in NDMC or CPWD Manual and in NIT/bid documents, there was no clause of obtaining experience certificate. Accused no.2 also stated that the suitability and eligibility of the bidders, M/s Raja Aederi Consultants Pvt. Ltd. and M/s Kothari & Associates were independently examined by the Board of Assessors after scrutinizing their bid documents and after the presentation was

made by the bidders before the Board of Assessors and cumulative marks of technical bid and financial bid were considered. Accused no.2 also stated that entire note-sheets and notings prepared by him were placed in the official file and were sent upto the Chairman through various levels of Officers and each and every action has been scrutinized by higher officials in the present case and no objection was raised by any official in the present case. Accused no.2 also stated that in the present matter after the bid was technically evaluated, it was forwarded by Engineer in Chief, NDMC, to Chairperson, for approval and for permission to open the "Q" bid and approval was granted and "Q" bid was opened in the presence of bidders and the bidder who quoted the lowest rate was awarded Maximum Marks and since the cumulative marks awarded to M/s Raja Adheri Pvt Ltd. were highest, it emerged as a successful consultant for both the stadiums and finally the Chairperson awarded the work on recommendation of Engineer in Chief, NDMC. Accused no.2 stated that as an Executive Engineer, he had no independent power to award or cancel the contract of any bidder and the entire bid documents were placed before the Board of Assessors and there was no illegality in the said process and there had been no complaint and no loss has been caused to the NDMC.

10. Accused no.3, Mr. Raja Aederi is Director of accused no.5. Accused no.3 stated that civil work is presumed to be

completed only when completion certificate is issued and this is not applicable to consultancy work. Accused also stated that structural designing includes designing of main components of upgradation and renovation of projects and is major and most important aspect of designing and execution of the project as the existing structures stability and adaptation to new uses had been made. He also stated that charge-sheet is based on unfair and biased investigation and is incorrect and false. Accused stated that he was not involved in the day to day process of the eligibility, evaluation and award of the tender process as their company had authorized Mr. Uday Bhat to look after the same. Accused no.3 further stated that he was informed by Mr. Uday Bhat subsequently that the suitability and eligibility of the bidders i.e. M/s Raja Aederi Consultants P Ltd. and M/s Kothari & Associates were independently examined by the Board of Assessors (BOA) after scrutinizing their bid documents and after the presentation was made by the bidders before the BOA and after examining the bid documents and the presentation made by the bidders, BOA had awarded marks to the bidders under technical evaluation for both stadias and thereafter evaluation of financial bids had taken place and on the basis of cumulative marks, the work had been allotted to M/s Raja Aederi Consultants P Ltd. by the Chairperson. Accused further stated that M/s Raja Aederi Consultants P Ltd. had entered into a MOU dated 18.05.2006 with M/s Sterling Engineering Consultancy Services Pvt. Ltd. for the purpose of participating in the bid/NIT of

upgradation/renovation of Talkatora and Shivaji Stadium and M/s Sterling Engineering Consultancy Services Pvt. Ltd. had authorized M/s Raja Aederi Consultants P Ltd. to use its experience, financial status etc. for the purpose of applying and qualifying for the bid/NIT in question. Thus, the experience of M/s Sterling Engineering Consultancy Services Pvt. Ltd. could be considered while evaluation of the technical bid. Accused no.3 stated that he was also informed by Mr. Uday Bhat that the experience of M/s Sterling Engineering Services Pvt. Ltd. had been considered by the BOA of NDMC who were aware of the said fact and after considering the same, they had awarded marks to M/s Raja Aederi Consultants Pvt. Ltd. during the technical evaluation of their bid. Had the said process been incorrect or if the experience of M/s Sterling Engineering Consultancy Services Pvt. Ltd. could not be considered, the Board of Assessors could not have awarded marks to M/s Raja Aederi Consultants Pvt. Ltd. during the evaluation of the technical bid and would have rejected the bid of M/s Raja Aederi Consultants Pvt. Ltd. at the technical stage itself. Accused no.3 had further elaborated about the projects undertaken and completed by accused no.5, M/s Raja Aederi Consultants Pvt. Ltd.. Accused no.3 clearly stated that the entire process of applying, eligibility and award of the tender process on behalf of their company was being managed and looked after by Mr. Uday Bhat and he had no relation or connection with the entire tender process. He had never visited NDMC personally and had never

contacted or met any of the officials of NDMC during the tender process as the same was being looked after by Mr. Uday Bhatt. He had provided his services and expertise pursuant to the tender having been awarded to M/s Raja Aederi Consultants Pvt. Ltd.

11. Accused no.3, Raja Aederi also stated that in the year, 2005, M/s Sterling Engineering Consultancy Services Pvt. Ltd. had completed the structural engineering consultancy services in relation to the central hall and major steel roofs of the NSCI stadiums and as such the same was shown in the list of completed projects in the last five years. Since M/s Sterling Engineering Consultancy Services Pvt. Ltd. was also undertaking further work of structural engineering in relation to other ancillary structures being build around the main dome of the NSCI stadium, Mumbai, the same were shown in the list of ongoing projects. The status of work of NSCI, Mumbai, had been shown after consulting M/s Sterling Engineering Consultancy Services Pvt. Ltd. and it was in their knowledge and the said fact has also been confirmed by Mr. Kamal Hadkar before this Court. Accused no.3 also stated that there has been no loss to the NDMC and the work was done with utmost sincerity and honestly.

12. Accused no.4, Uday Shankar Bhat stated almost same facts as stated by accused no.3. Accused no.4 stated that a letter dated 08.05.2006, was signed by him and submitted by him.

Accused no.4 stated that the consultancy work with regard to NSCI stadium, Mumbai had been undertaken by M/s Sterling Engineering Consultancy Services Pvt. Ltd. in various parts and portions of the entire complex consisting of main sports arena and ancillary building around. In the year, 2005, M/s Sterling Engineering Consultancy Services Pvt. Ltd. had completed the structural engineering consultancy services in relation to the central hall and major steel roofs of the NSCI stadiums and as such the same was shown in the list of completed projects in the last five years. Since M/s Sterling Engineering Consultancy Services Pvt. Ltd. was also undertaking further structural engineering work in relation to other ancillary structures being build around the main dome of the NSCI stadium, Mumbai, the same were shown in the list of ongoing projects. The status of work of NSCI, Mumbai, had been shown after consulting M/s Sterling Engineering Consultancy Services Pvt. Ltd. and it was in their knowledge and the said fact has also been confirmed by Mr. Kamal Hadkar before this Court.

13. Accused no.5 is a company. Statement of accused no.4 being Director of the said Company was recorded on behalf of the company. He stated the same facts as stated by accused no.4 in his statement.

14. The accused no. 3, 4 and 5 examined DW-1, Mr. Deepak Kumar Thakur & DW-2, Mr. Anirudh Prasad Pandey in their defence and accused no.2 examined DW-3, Mr. B.L. & DW-4, Mr. J.K. Katyal, in his defence.

DW-1 Mr. Deepak Kumar Thakur, Assistant Executive Engineer, CPWD. DW-1 deposed about applicability of CPWD Manual.

DW-2 Mr. Anirudh Prasad Pandey, Project Coordinator with accused no.5, M/s Raja Aederi Consultants Pvt. Ltd. DW-2 deposed that accused no.3, Raja Aederi was not involved in the projects and never visited NDMC in relation to projects of Talkatora Stadium and Shivaji Stadium and did not meet officials of NDMC. He denied to have made any statement to IO.

DW-3 Mr. B.L. Meena, Assistant Public Information Officer, NDMC. He produced records regarding the reply given by them to RTI of accused no.2, Mr. V.K. Gulati.

DW-4            Mr. J.K. Katyal, Junior Engineer (Civil). He also produced certain records regarding the reply given by them to RTI of accused no.2, Mr. V.K. Gulati.

15.            I have heard Ld. Counsels for the accused as well as Ld. PP for CBI.

**Contentions of Ld. Counsel for CBI**

16.            Ld. Counsel for CBI submits that accused persons have conspired with each other and have granted favour to accused no. 3 to 5 by awarding tender of renovation and upgradation of Shivaji Stadium and Talkatora Indoor Stadium in utter violation of guidelines. It is submitted that accused no. 1 and 2 had wrongly stated in their notes that the accused no.5 was eligible bidder although accused no.5 was not fulfilling the eligibility conditions as mentioned in bid documents that Architect Consultant must fulfill the condition of having completed the similar works of consultancy services costing not less than 20 crores during last five years, besides other conditions.

17.            It is further submitted that accused no.5, M/s Raja Aederi Consultants Pvt. Ltd. was not having any expertise of

renovation/upgradation of any stadium and had fraudulently stated in bid documents that they were having such expertise. It is submitted that accused no. 3 to 5 claimed that they had done renovation/upgradation work of NSCI, Worli, Mumbai, and had also performed 70 to 80% of another work of the said stadium, although, M/s Raja Aederi Consultants Pvt. Ltd. had never worked in NSCI Club, Worli, Mumbai.

18. Ld. PP further submitted that accused no. 3 to 5 falsely stated that they were having Consortium with M/s Sterling Engineering Consultancy Services. In fact the MOU, Ex. PW-4/E, filed with the bid documents was camouflage as the accused no. 3 to 5 had not applied as Consortium Partner but only as an individual company. An Agreement was entered between NDMC and M/s Raja Aederi Consultants Pvt. Ltd., in the individual capacity of accused no.5, M/s Raja Aederi Consultants Pvt. Ltd..

19. Ld. PP submits that the claim of the accused that M/s Sterling Engineering Consultancy Services had worked in NSCI Club and they had claimed expertise of said company is also deceptive as M/s Sterling Engineering Consultancy Services was a Structural Consultant and their expertise could not have been considered even if they had applied for the tender as a Consortium Partner, as the bid documents clearly required an Architectural Consultant to be

appointed and the expertise was required to be of Architectural Consultancy and not Structural Consultancy.

20. Ld.PP also submitted that the accused company has falsely claimed the experience of having done work of the NSCI Club, which in fact was under construction/renovation and completion certificate was issued only in year 2009 and 2012, hence, the accused cannot claim to have completed consultancy service even if it is assumed that accused was doing such work, although, in fact accused no.5 had never been employed by NSCI for its work.

21. Ld. PP submitted that accused V.K. Gulati had prepared comparative statement in his chamber by himself and has also wrongly mentioned in his note that accused no.5 was fulfilling the eligibility criteria which fact clearly shows extra interest was taken by accused V.K. Gulati to grant favour to accused M/s Raja Aederi Consultants Pvt. Ltd..

22. Ld. PP submitted that accused no.1, R.S. Thakur was aware that accused no.5, M/s Raja Aederi Consultants Pvt. Ltd. was not eligible for the said project and has stated so in his Note-sheet dated 05.01.2006, Ex. PW-5/E, that out of six companies, which applied in response to notice inviting expression of interest, M/s Kothari and Associates and M/s Consulting Engineering Services

India (Pvt.) Ltd. were found to be eligible. Despite having this fact in his knowledge, he has subsequently approved the Note dated 29.05.2006, Ex. PW-1/D2 of accused no.2, V.K. Gulati where accused no.2, Mr. Gulati had observed that M/s Kothari and Associates and accused M/s Raja Aederi Consultants Pvt. Ltd. were eligible and were having requisite experience. Ld. PP also submitted that bid documents were designed by accused no.2 V.K. Gulati in a manner that accused no.5, M/s Raja Aederi Consultants Pvt. Ltd. qualify to get tender as there is no clause regarding filing of experience certificate in the said bid documents. Ld. PP also submitted that the MOU between M/s Raja Aederi Consultants Pvt. Ltd. and Mr. Kamal Hadker is of no consequence as Kamal Hadkar was not authorized by M/s Sterling Engineering Consultancy Services Pvt. Ltd. to enter into such contract. Lastly, Ld. Counsel for CBI contended that accused nos. 3 to 5 have succeeded in getting tender by dishonest mis-representation/concealment of facts and has therefore caused unlawful gain and caused consequent loss to the NDMC.

23. Ld. Counsel for CBI relied upon the following judgments :-  
(1) *Chittranjan Shetty Vs. State through CBI Bangalore*, (2016) 3 SCC (Cri.) 299; (2) *M. Narayanan Nambiar Vs. State of Kerala*, CRI. L.J. 186 SC (1963) (2) ; (3) *Runu Ghosh & Others Vs. CBI*, dated 21.12.2011, Criminal Appeal No. 482/2002 ; (4) *Manohar Mr.Lal Vs.*

*Vinesh Anand, 2001 Cri. L.J. 2044 SC; (5) N.M. Chakraborty Vs. State of West Bengal, 1977 Cri. L.J. 961 SC ; (6) Dr. Vimla Vs. Delhi Administration, 1963 (2) Cri.L.J. 434 SC and (7) Banti Vs. State of M.P, 2004 Cri. L.J. 372.*

### **Contentions of Accused No.1**

24. On the other hand, Ld. Counsel for accused no.1 contended that accused no.1 has been falsely implicated and there is nothing on record to show that accused no.1 has ever conspired with any other accused or granted any favour to accused no. 3 to 5.

25. It is submitted by Ld. Counsel for accused no.1 that accused no.1 had at the time of considering application received in response to Notice inviting EOI clearly mentioned in his Note-sheet dated 05.01.2006, Ex. PW-5/E, that only two companies M/s Kothari Associates and Consulting Engineering Services India Pvt. Ltd. were having requisite experience and were suitable which shows that accused no.1 had not granted any favour to accused no. 3 to 5. Further even the said proposal of accused no.1 was superceded by the advice given by Mr. Sanjeev Sen Gupta, Chief Architect that Sub-committee should be constituted for selection of the company, whichever is suitable.

26. It is submitted that the prosecution has failed to place on record the documents filed by 6 companies in response to the Notice inviting EOI, while in Bid documents filed in response to Notice inviting tender, M/s Raja Aederi Consultants Pvt. Ltd. filed number of details, therefore both the details cannot be compared and it cannot be said what documents were considered by accused no.1, R.S.Thakur, at the time of notice inviting EOI to hold accused no.5, M/s Raja Aederi Consultants Pvt. Ltd. as disqualified.

27. Ld. Counsel for accused no.1 further submitted that NIT of 27 pages was published as said Sub-Committee had decided for fresh bids to be called and the conditions of NIT were different than the EOI which was only 1 page document. It is further submitted that the bid documents were filed by 3 companies M/s Raja Aederi Consultants Pvt. Ltd., M/s Kothari and Associates and Architectural Grid, although, six companies had got issued bid documents and the Board of Assessors which consisted of seven members from different fields with vast experience had evaluated the technical bid and since accused no. 3 was the lowest bidder, was granted contract and accused no.1 at that time was acting only as a Convenor.

28. It is submitted that Mr. Anant Kumar, Chief Engineer, NDMC (PW-4) and Mr. Shakeb Akhtar, Superintending Engineer, Civil,

NDMC (PW-5), have clearly stated that Board of Assessors was constituted which consisted of persons from different fields having vast experience in different fields and the purpose of selecting these persons as Member of Board was that they could evaluate the Bid from the angle of their field and they can check the documents submitted by different companies for the tender. The Board of Assessors has given marks collectively and they were responsible for selecting M/s Raja Aederi Consultants Pvt. Ltd.. It is also submitted that even the evaluation sheet would show that overall marks of technical bid and financial bid of accused no.5, M/s Raja Aederi Consultants Pvt. Ltd., were the highest, hence, it secured the contract and this fact clearly shows that no favour was done to accused nos. 3 to 5.

29. Ld. Counsel for accused no. 1 further submitted that infact no loss has been caused to NDMC and accused no. 3 to 5 have performed the work which is of world class level. Ld. Counsel for accused no.1 further submitted that infact it was the Board of Assessors, who had done evaluation and accused no.1, cannot be held liable.

30. Ld. Counsel for accused no.1 relied upon the judgment ***State of Madhya Pradesh Vs. Sheetla Sahai & Ors. [(2009) 8 SCC 617]***.

## **Contentions of Accused No.2**

31. Ld. Counsel for accused no.2 addressed same arguments as addressed by accused no.1. Ld. Counsel for accused no.2 further contended that prosecution has failed to prove when the alleged conspiracy started or when accused no.2 joined the conspiracy. He submitted that in fact no offence is committed by accused no.2, who always acted with due diligence and utmost honesty and it is not disputed that stadiums which were renovated are of world class and no loss had been caused to the NDMC in the said project.

32. Ld. Counsel for accused no.2 submitted that entire process of tender was done transparently as NIT (Notice Inviting Tender) was on website. Technical bid was opened in presence of representatives of bidders and Board of Assessors had evaluated technical bid and marks were given by Board of Assessors under different heads at the time of evaluation of technical bid.

33. It is submitted that accused no.2 had clarified in his noting dated 29.05.2006, Ex. PW-1/D2 that M/s Raja Aederi Consultants Pvt. Ltd. and Kothari Associates both were having requisite experience and original documents were to be checked. The appointment of

Architect Consultant was done by Board of Assessors which has also seen the presentations of both the companies and it has given marks to both the companies after checking the documents of bidders. It is submitted that at the time of evaluation of technical bid and financial bid, any of the bidder could have qualified, hence, it cannot be said that accused M/s Raja Aederi Consultants Pvt. Ltd. was favoured by the accused no.2 or there has been violation of any rule or guideline.

34. Ld. Counsel for accused no.2 submitted that from testimony of PW-9, Mr. Braham Prakash Verma, Assistant Account Officer, NDMC, it is clear that comparative statement was not prepared by accused no.2 and even if it is assumed that accused no.2 had prepared comparative statement, the same was only for the administrative purpose and it cannot be said to be an act favouring the accused no.5. Ld. Counsel further submitted that if accused no.2 wanted to favour accused no. 3 to 5, he would have drafted bid documents in such a manner that only accused no.5 could have qualified but infact six companies had purchased bid and three had filed bids and two were found to have requisite qualification and their bids were evaluated, hence, there was no occasion for the accused no.2 to favour any of the company.

35. Ld. Counsel for accused no.2 relied upon the judgments :-  
(1) *A. Sivaprakash Vs. State of Kerala*, [2016 AIR (SC) 2287, 2016

*CRLJ 2654] ; (2) C. Chenga Reddy and Others Vs. State of A.P. [(1996) 10 SCC 193]; (3) Abdulla Mohammed Pagarkar Vs. State (Union Territory of Goa, Daman and Diu); (4) C.K. Jaffer Sharief Vs. State (Through CBI) [(2013) 1 SCC 205]; (5) State of Madhya Pradesh Vs. Sheetla Sahai and Others, [(2009) 8 SCC 617]; (6) Nimalendu Biswas Vs. State [1987 CRI LJ 1827].*

### **Contentions of Accused No. 3 to 5**

36. Ld. Counsel for accused no. 3 to 5 contended that present case is malafidely instituted by CBI, although, neither loss has been caused to the NDMC nor NDMC was aggrieved and the work done by accused no. 3 to 5 was of world class and there has not been any complaint in this regard. Ld. Counsel for accused no. 3 to 5 contended that testimony of PW-8, Mr. Kamal Hadker, Director, M/s Sterling Engineering Consultancy Services Pvt. Ltd. and the MOU, Ex. PW-4/G, shows that M/s Sterling Engineering Consultancy Services Pvt. Ltd. was a Consortium Partner of accused no.5, M/s Raja Aederi Consultants Pvt. Ltd. and M/s Sterling Engineering Consultancy Services Pvt. Ltd. was having sufficient experience as required under bid documents and hence M/s Raja Aederi Consultants Pvt. Ltd. was qualified for the said project and was rightly granted the contract. It is submitted that the experience of M/s Sterling Engineering Consultancy Services Pvt. Ltd. of structural consultancy can be

considered as the Architectural work includes structural, electrical, mechanical work also.

37. Ld. Counsel also submitted that accused no. 3 to 5 filed bid which contained a MOU between M/s Raja Aederi Consultants Pvt. Ltd. and M/s Sterling Engineering Consultancy Services. Resume of both the companies, list of technical persons employed by both the companies. No fact has been concealed by accused nos. 3 to 5, therefore, offence of cheating is not made out. It is also submitted that accused nos. 3 to 5 had got the said contract on merit after proper evaluation of technical bid by Board of Assessors consisting of persons from different fields having vast experience and who considered all the documents submitted by accused no.5.

38. Ld. Counsel for accused no. 3 to 5 submitted that since M/s Sterling Engineering Consultancy Services could not spare time, hence, accused no. 3 to 5 had to get the work done from another reputed structural consultant M/s Mahindra Raj and Co.. Ld. Counsel for accused nos. 3 to 5 further submitted that scope of work as mentioned in bid documents, Ex. PW-5/X and Agreement, Ex. PW-1/G, in respect of Talkatora Stadium clearly show that major part was structural designing and same is supported by the testimony of PW-8, Mr. Kamal Hadkar, Director, M/s Sterling Engineering Consultancy Services Pvt. Ltd. and PW-5, Mr. Shakeb Akhtar Khan, Superintending

engineer, NDMC, hence, the experience of Structural Consultant was as per the provisions of bid documents. Ld. Counsel for accused submitted that CBI has failed to show that there was any dishonest intention on the part of accused nos. 3 to 5 which is essential ingredient of cheating.

39. Ld. Counsel for accused also contended that as per Clause 7.02 of the Agreement, the company applying for the tender can hire Sub-Consultant.

40. Lastly, Ld. Counsel for accused nos. 3 to 5 contended that CBI has failed to show meeting of minds to show conspiracy and how any favour was done by the accused nos. 1 and 2 to the accused nos. 3 to 5 as there were Board of Accessors which considered documents of bidders and granted marks at the time of evaluation of the technical bids. Ld. Counsel also contended that accused no.3 has not been involved in the project and no loss has been caused to the NDMC.

41. Ld. Counsel for accused 3 to 5 relied upon the judgments :- (1) *Ashish Batham Vs. State of M.P.*, SCC 8 317; (2) *Mousam Singha Roy Vs. State of West Bengal*, (2003) 12 SCC 377; (3) *State of U.P. Vs. Nandu Vishwakarma & Ors.*, (2009) 14 SCC 501; (4) *Bhujang Fakirappa Karade Vs. State of karnataka*, 1976 Law Suit

(KAR) 161; (5) *Ramji Lakshmi Budhadev Vs. Harshadrai Nand* Mr. Lal Bhuta, 1960 Cri.L.J. 812; (6) *Abdul Fazal Siddiqui Vs. Fatchand Hirawat & Anr.*, (1996) SCC 32; (7) *Ram Jas Vs. State of U.P.*, 1970(2) SCC 740; (8) *Harendra Nath Das Vs. Jyotish Chandra Datta*, (1925) ILR 52 Cal 188; (9) *Subrato Saha Vs. State of Bihar*, 1990 (1) Crimes 8 (Patna); (10) *Hridaya Ranjan Prasad Verma & Ors. Vs. State of Bihar & Anr.* (2000) 4 SCC 168; (11) *Narendra kumar Vs. State (NCT of Delhi)*, (2012) 6 SCC1; (12) *Sunil Bharti Mittal Vs. CBI*, (2015) 4 SCC 609; (13) *Dudh Nath Pandey Vs. State*, AIR 1981 SC 911; (14) *Sidhartha Vashisht @ Manu Sharma Vs. State (NCT of Delhi)*, (2010) SCC1; (15) *Sailendra nath Mitra Vs. The State*, AIR 1954 Cal 373; (16) *Kodur Thimma Reddi & Ors. Vs. Unknown*, 1957 Cri.L.J. 1091, (17) *K.R. Purushothaman Vs. State of Kerala*, (2005) 12 SCC 631; (18) *CBI, Hyderabad Vs. V.K. Narayana Rao*, (2012) 9 SCC 512 and (19) *P.K. Narayanan Vs. State of Kerala*, (1995) 1 SCC 142.

42. I have perused the material on record and heard Ld. Counsels for the parties.

43. Before proceeding further, I deem it proper to mention that PW-13, Mr. Lal Chhandama, Deputy Secretary, Government of India, has proved the sanction to prosecute accused no.1 as Ex. PW-13/A. Therefore, it is clear that necessary sanction was granted by competent authority to prosecute accused no.1, Mr. R.S. Thakur, who

was public servant being Superintending Engineer, NDMC, Delhi. The accused no.2, since retired from his services , no sanction to prosecute him was needed.

44. The accused no.1, R.S. Thakur and accused no.2, V.K. Gulati, have been charged for the offences under Section 13 (2) and Section 13 (1) (d) of P.C. Act and accused no.3, 4 and 5 have been charged for the offence under Section 420 IPC and accused no.1, 2, 3, 4 and 5 have been charged under Section 120B read with Section 420 IPC and 13 (2) read with Section 13 (1) (d) of P C Act.

**The first question to be decided is whether public servants accused no.1 and 2 committed any misconduct as defined U/S 13(1)(d) of P.C. Act.**

45. The essential ingredient of Section 13(1)(d) of P.C. Act are :-

(1) The person should be public servant ; (2) He should have used corrupt or illegal means or otherwise abused his position as such/public servant and obtained valuable thing(s) or pecuniary advantage for himself or for any other person or he should have obtained valuable thing(s) or pecuniary advantage for himself or for any person without any public interest.

**Testimonies of witnesses relevant for deciding aforesaid point**

46. Testimonies of PW-1, Mr. Krishan Singh Bhardwaj, Sr. Assistant, Internal Audit Branch, NDMC, PW-4, Mr. Anant Kumar Chief Engineer, NDMC, PW-5, Mr. Shakeb Akhtar Khan, Superintending Engineer, Civil, NDMC, PW-9, Mr. Braham Prakash Verma, Assistant Account Officer, NDMC and PW-14, DSP Surender Malik are relevant.

47. PW-1 Shri Krishan Singh Bhardwaj, Senior Assistant, Internal Audit Branch, NDMC, stated that he was posted as Senior Assistant at Bhagat Singh Palace, Gole Market, in the office of Building Maintenance Division No.I (Civil), which was headed by Executive Engineer, Mr. V.K. Gulati. PW-1 stated that during the process of opening tender, comparative statement of technical bids was prepared under the dictation of Executive Engineer, Mr. V.K. Gulati in the room of Mr. V.K. Gulati himself and the comparative statement of Shivaji Stadium (Ex. PW-1/B) and Talkatora Stadium (Ex. PW-1/C) show that bids of three firms were considered for improvement/upgradation of Shivaji Stadium and Talkatora Stadium. PW-1 also stated that a letter (Ex. PW-1/D-3) was submitted by Mr. Uday Shanker Bhat to Executive Engineer, Mr. V.K. Gulati and he had made endorsement on the said letter in his handwriting to the effect that bid documents be issued to M/s Raja Aederi Consultants Pvt. Ltd.

PW-1 stated that bid documents were issued to M/s Raja Aederi Consultants Pvt. Ltd. on the direction of AE, V.K. Gulati. PW-1 stated that comparative statement on separate sheet was prepared in the present case only on the dictation of their Executive Engineer, V.K. Gulati, otherwise in every other case Mr. V.K. Gulati used to write in register. PW-1 stated that PW-1/D-4 was an application to obtain tender and with the said application M/s Raja Aederi Consultants Pvt. Ltd. had not enclosed document regarding project of similar nature designed by it. PW-1 also stated that with the application to obtain tender (Ex. PW-1/D-3) no enclosure was attached.

48. PW-1 stated that Note, Ex. PW-1/D-1 was regarding improvement and upgradation of Talkatora Stadium and the Note-sheet/document was prepared by Mr. Virender Kumar and forwarded it to Mr. B.P. Verma and thereafter it was forwarded to V.K. Gulati. PW-1 further stated that Note Ex. PW-1/D-1 does not mention that comparative statement was dictated by V.K. Gulati. PW-1 stated that they have not received any complaint regarding awarding of contract and the execution of contract.

49. PW-4 Mr. Anant Kumar, Chief Engineer, NDMC, deposed that his parent Department was CPWD and he was on deputation in NDMC since 10.08.2011. PW-4 stated that the work cannot be awarded on the basis of expression of interest as the technical and

financial bids are to be evaluated for awarding a contract. He stated that as per his knowledge, in January 2006, there were no specific guidelines for appointment of architect consultant and during that time i.e. in 2006, the contractor should have the requisite experience of work but in this case as this was the case of Consultant, the requisite experience in designing structure was required. PW-4 stated that only difference between the NIT of normal civil work and the work concerned with this case is of eligibility criteria. Prior expertise in developing/upgrading sports venue for boxing in case of Talkatora stadium and hockey in case of Shivaji stadium as per international standards was required and the bidder must have completed similar consultancy works in the last five years.

50. PW-4, Mr. Anant Kumar also stated that Architect Consultant can appoint specialized consultant in consultation with the NDMC for which no extra fee would be paid. PW-4 stated about the condition of appointment of specialized Consultant at Point No. 7.02 in Ex. PW-4/D for Shivaji Stadium and Ex. PW-4/C for Talkatora Indoor Stadium.

51. PW-4 further stated that Evaluation Sheet of technical bid (Ex. PW-2/L) was evaluated by seven different persons who were expert in their field i.e. Mr. H.S. Dogra, ADG, CPWD and Mr. S. Bhatia, ADG, CPWD and five members from NDMC namely Mr. V.K.

Gulati, EE, Mr. R.S. Thakur, SE, Mr. V.P. Gupta, SE, Mr. K.K. Mutreja, E-in-C and Mr. S. Sen Gupta, Chief Architect. PW-4 stated that evaluation was done collectively by all the seven members regarding the work to be done in Talkatora Stadium and as per general/normal procedure, the evaluation work is prepared by the concerned department and presented before the Board of Assessors, however, in the present case, it appears that all the seven members have evaluated. PW-4 stated that the purpose of appointing experts from different disciplines is that the concerned expert can evaluate the suitability of the bidder in expert field. PW-4 has given the same statement regarding Evaluation Sheet (Ex. PW-1/F-2) in respect of Shivaji Stadium.

52. PW-4 stated that MOU dated 18.05.2006 (Ex. PW-4/E), was between M/s Raja Aederi Consultants Pvt. Ltd. and M/s Sterling Engineering Services Pvt. Ltd. for working together for the project of improvement/upgradation of Talkatora Stadium and Shivaji Stadium. PW-4 stated that letter, Ex. PW-4/F was written by M/s Sterling Engineering Services Pvt. Ltd. and M/s Raja Aederi Consultants Pvt. Ltd. to Executive Engineer, stating herein that they were jointly and severally liable to NDMC under the contract with the NDMC. PW-4 stated that purpose of MOU and the letter indicate that the joint experience of both the firms can be considered at the time of evaluation of the eligibility for pre-qualification. PW-4 also stated that

the effect of non mentioning of MOU in organizational structure (Ex. PW-4/I and Ex. PW-4/J) is that experience of M/s Sterling Engineering Services Pvt. Ltd. cannot be considered at the time of evaluation of the technical bid.

53. PW-4, Mr. Anant Kumar also stated that on the basis of documents, table of ongoing work, Ex. PW-4/M and Ex. PW-4/N, he could say that eligibility criteria was not fulfilled by M/s Raja Aederi Consultants Pvt. Ltd. PW-4, Mr. Anant Kumar, stated that any work is presumed to be completed only when the completion certificate is issued by the owner/competent authority where the work is completed by contractor/agency. Consortium means when two or more persons agree to work together for a project so that the expertise of all the persons can be utilized.

54. PW-4, Mr. Anant Kumar, stated that profile of the company M/s Sterling Engineering Services Pvt. Ltd., Ex. PW-4/P, shows that it had done structural designs of the buildings and structural designs of various components of the building like foundation, columns, beams, slabs and other materials which indicates the thickness, width and the quantum of the material etc. PW-4 after seeing NIT stated that applications were invited from reputed Architect for improving the architectural designs/features of existing stadiums to international standards, for Talkatora stadium, it was boxing, for Shivaji Stadium, it

was for Hockey.

55. PW-4, Mr. Anant Kumar also stated that Two bid system means technical bid is opened and is evaluated and thereafter those bidders who qualify, their financial bids is opened. Any successful bidder is decided on the basis of combined score of technical and financial bids. In two bids system, evaluation of the eligibility is not required at the stage of issuing tender/bid document and the evaluation of bid will be done after opening of the technical bid on the basis of the documents submitted by the bidder.

56. During cross-examination, PW-4, Mr. Anant Kumar stated that he did not have knowledge of this case and he had stated on the basis of documents shown to him. PW-4 stated that Agenda point was to be placed before Sub-committee and the accused, R.S. Thakur has neither proposed nor rejected the name of any firm and has placed details of six firms to the committee with the request that details may be examined and names of the Consultants may be recommended for approval of the Empowered Committee. PW-4, Mr. Anant Kumar stated that R.S. Thakur has recommended for calling fresh bid after preparation of proper bid document and as per the note dated 14.01.2016 (Ex. PW-4/DX-3), directed to call fresh bid for each Stadium giving detailed scope of work.

57. PW-4 stated that an approval to open financial bid was obtained from Chairperson by Engineer-in-Chief vide his Note dated 14.06.2006 (Ex. PW-4/DX-6). PW-4 stated that by seeing Ex. PW-4/DX-1 (Note dated 05.01.2006 of Chief Architect Sanjiv Sen Gupta) and Ex. PW-4/DX-2 (Agenda point signed by R.S. Thakur, accused no.1), he could not tell basis of rejection of remaining four firms. PW-4 stated that NITs were for redevelopment of the stadia by making addition/alteration, upgradation, improvement to existing stadium and there is no question of construction of new stadium. PW-4 admitted that resume and list of major projects (Ex. PW-4/DX-7 (Colly.)) of M/s Raja Aederi Consultants Pvt. Ltd. and resume and list of major projects of M/s Sterling Engineering Services Pvt. Ltd. (Ex. PW-4/DX-7 (Colly.), Ex. PW-4/DX-8 (Colly.), Ex. PW-4/DX-9 (Colly.) and Ex. PW-4/DX-10 (Colly.)) were part of bid documents.

58. PW-4, Mr. Anant Kumar further stated that NDMC had invited bids from registered Architect and for eligible Architect, the condition of Experience Certificate was also required. PW-4 stated that in case of two bid system, the financial bid is opened only after ascertaining of technical eligibility of the bidder and in a single bid system, the eligibility is examined before issuing the bid document but in case of two bid system, the bid document is issued and their technical suitability is examined after opening of the technical bid and the applicants who qualify technical bid, their financial bids are

opened and bidder is decided only on the basis of combined score of technical as well as financial bids.

59. PW-4, Mr. Anant Kumar stated that consultancy work cannot be completed till project is completed because consultancy is ongoing process and is required upto the completion of the project. PW-4, Mr. Anant Kumar stated that architectural design includes all the details of project including last items i.e. finishing, colour scheme and similar items. PW-4, Mr. Anant Kumar stated that M/s Mahendra Raj Consultants Pvt. Ltd. And M/s Suri & Suri are the best for structural engineering and the acoustic engineering respectively.

60. PW-5, Mr. Shakeb Akhtar Khan, is a Superintending Engineer, NDMC. PW-5 stated that vide EOI (Ex. PW-5/C and Ex. PW-5/B), bids were invited for empanelment of architects/firms for obtaining T&Q bids having experience of similar project costing above Rs. 30 crores executed in past three years.

61. PW-5, Mr. Shakeb Akhtar Khan stated that the comparative statement (Ex. PW-5/D) has not shown experience of M/s Raja Aederi Consultants Pvt. Ltd. of consultancy in renovation of any stadia. PW-5 further stated that accused R.S. Thakur has shortlisted M/s Consulting Engineer Services (India) Pvt. Ltd. for upgradation of Talkatora stadium and M/s Kothari & Associates for

Shivaji Stadium. Chief Architect Sanjeev Sengupta, to whom the file was marked, recommended for setting up small Sub-committee with the approval of competent authority vide a Note (Ex. PW-4/DX-1) and the Chairperson, Ms. Sindhu Shri Khuller, vide Note dated 14.01.2006 (Ex. PW-4/DX-3), formed Sub-committee, to be chaired by Advisor Consultant, Mr. M.M. Rana, Chief Architect, Mr. H.S. Dogra, ADG, CPWD, Mr. V.K. Gulati, Executive Engineer and Mr. Gupta, S.E. and R.S. Thakur was mentioned as Convenor and meeting of Sub-Committee was held on 03.03.2006 to discuss the issue of appointment of Consultant for stadia projects. In the said matter, six firms/individual Architects applied and details received from them were not adequate, as such, the Sub-Committee vide Note dated Ex. PW-4/DX-4, had proposed to call fresh bids after preparation of proper bid documents consisting of scope of work.

62. PW-5, Mr. Shakeb Akhtar Khan further stated that in response to the advertisement, six firms/Consultants purchased the bid documents from Divisional office, out of which only three bid documents were received back in tender box on the date of opening i.e. 23.05.2006 from M/s Architectural Grids, M/s Kothari & Associates and M/s Raja Aederi Consultants Pvt. Ltd.. The Executive Engineer, vide Note dated 29.05.2006, (approved by R.S. Thakur, vide Note, Ex. PW-5/J) submitted the file for approval and for fixing the date of presentation before Board of Assessors and the matter was ultimately

approved by Chairperson, Ms. Sindhushree khuller, vide her note dated 30.01.2006 (Ex. PW-5/K). PW-5 further stated that bid of M/s Architectural Grids, Ex. PW-5/P, was not considered.

63. PW-5, Mr. Shakeb Akhtar Khan further stated that vide Note dated 14.06.2006 (Ex. PW-1/E-5) accused V.K. Gulati mentioned that Board of Assessors carried out the evaluation of technical bid for Shivaji Stadium and Talkatora Stadium and the file was submitted to Chairman, through Project Leader and Engineer in Chief, for acceptance of evaluation of technical bid and for permission to open financial bids of remaining two firms M/s Raja Aederi Consultants Pvt. Ltd. and M/s Kothari Associates and the said approval was granted by Chairperson Ms. Sindhushree Khuller, vide her note dated 15.06.2006, (Ex. PW-4/DX-6). Thereafter, financial bid was opened and Note was initiated by V.K. Gulati vide Note dated 26.06.2006, Ex. PW-5/U, finally approved by Ms. Sindhushree Khuller. Thereafter, the draft agreement was submitted by M/s Raja Aederi Consultants Pvt. Ltd. and was scrutinized at various stages and various amendments were suggested and approved and finally it was submitted by V.K. Gulati for approval, vide his Note dated 27.09.2006, Ex. PW-2/E. Thereafter recommendations were also seen by Chief Architect, Mr. Sanjeev Sen Gupta and the said Note was finally approved by Engineer in chief, vide Note dated 29.09.2006, Ex. PW-2/E.

64. PW-5, Mr. Shakeb Akhtar Khan stated that there is no usual procedure for pre-verification of genuineness of documents and experience certificates submitted by individual architects/firms, however, such verification of genuineness can be conducted by any official as and if required by members of Sub-committee and there is no guideline on this aspect nor CPWD Manual mentioned anything about it.

65. During cross-examination by Ld. Counsel for accused no.1, PW-5, Mr. Shakeb Akhtar Khan stated that accused R.S. Thakur put up proposal for appointment of Architect to Chief Architect/Chairpersons and Chief Architect, who had suggested for appointment of Sub-Committee to decide the Consultant. PW-5 admitted that the procedure suggested that R.S. Thakur's proposal got superceded as the matter was to be looked by Sub-Committee. PW-5 admitted that on re-tendering, Raja Aederi submitted details of consultancy works carried by him in the past i.e. during the last 5 years, as mentioned in Ex. PW-5/DX-1 and Ex. PW-5/DX-2. PW-5 stated that brief scope of work, Ex. PW-5/DX-3 and Ex. PW-5/4 mentions that there may be increase/decrease of work as Project proceed further. PW-5 also stated that at page no. 15, at point 'A' to 'A', bid document, Ex. PW-5/X, mentions that owner will have a single agreement with successful Consultant.

66. During cross-examination by Ld. Counsel for accused no.2, PW-5, Mr. Shakeb Akhtar Khan stated that company can apply for a tender in case the tender is cancelled or rejected and fresh tender is floated. PW-5 also stated that the condition mentioned in EOI (Ex. PW-5/B and Ex. PW-5/DX-1) are different from NIT (Ex. PW-5/DX-8).

67. PW-5, Mr. Shakeb Akhtar Khan further stated that Board of Assessors after analysing the information and documents submitted by the Consultant M/s Raja Aederi Consultants and M/s Kothari Associates and on the basis of the presentation made by the said Consultants, before the Board of Assessors, it had given their report and awarded marks to the said Consultants.

68. PW-5, Mr. Shakeb Akhtar Khan further stated that vide Note dated 26.06.2006, Ex. PW-5/U, Mr. K.K. Mutreja, Engineer in Chief had noted that based on technical and financial bid, evaluation by said Board of Assessors, the bids of M/s Raja Aederi Consultants Pvt. Ltd. are recommended for acceptance for Shivaji Stadium and Talkatora Stadium and the said Note was approved on 27.06.2006 by Ms. Sindhushree Khuller, the then Chairperson, NDMC and none of the members of the Board of Assessors and Ms. Sindhushree Khuller raised any objection with regard to any discrepancy in the information submitted by M/s Raja Aederi Consultants Pvt. Ltd..

69. PW-5, Mr. Shakeb Akhtar Khan stated that whenever a file moves from one official to another, entire file complete in all respects is forwarded. PW-5, Mr. Shakeb Akhtar Khan also stated that Memorandum of Understanding, Ex. PW-4/E dated 18.05.2006 between M/s Raja Aederi Consultants Pvt. Ltd. and M/s Sterling Engineering Services Pvt. Ltd. was a part of the Agreement, Ex. PW-4/G and Ex. PW-1/H, entered into between NDMC and M/s Raja Aederi Consultants Pvt. Ltd.. PW-5, Mr. Shakeb Akhtar Khan stated that since MOU was annexed with the bid documents of M/s Raja Aederi Consultants Pvt. Ltd., it was not required specifically mentioned in the Agreement entered between NDMC and M/s Raja Aederi Consultants Pvt. Ltd. particularly in view of the condition mentioned at point 1 in Ex. PW-5/X (Bid documents in relation to Talkatora Stadium) and Ex. PW-5/DX-4 (Bid documents in relation to Shivaji Stadium), Memorandum of Understanding need not be mentioned in Agreement. PW-5 stated that in the present matter, techno financial viability was to be seen for which cumulative effect of technical and financial bid was to be ascertained and lowest bidder was to be awarded work. PW-5 further stated that if a bidder receives higher marks in the technical evaluation and lower marks in the financial evaluation, he may not be the lowest bidder due to the cumulative effect of technical and financial effect.

70. PW-5 also stated that Board of Assessors consisted of various members of different disciplines so that each member could analyse the documents submitted by the Consultant from their own perspective.

71. PW-5 stated that he had seen Ex. PW-5/DX-2, details of all work of similar class (works related to sport Stadia) completed during last 5 years and in the said documents, it has been mentioned by M/s Raja Aederi Consultants Pvt. Ltd. that they had completed the work of NSCI Sports Stadium, Worli, Mumbai, at Serial No.9 and in Ex. PW-4/M, which is detail of all the works on ongoing works of similar class (works related to Sports Stadias), M/s Raja Aederi Consultants Pvt. Ltd. had mentioned that they were doing the work of National Sports Club of India and shown the progress of work to be 75% to 80% and similar facts had been mentioned in Ex. PW-5/DX-1 and Ex. PW-4/M in the bid documents filed in relation to Talkatora Stadium.

72. PW-5, Mr. Shakeb Akhtar Khan stated that in the present matter, entire documents were placed before Financial Advisor, NDMC and as per record no official of NDMC has raised any objection to the documents or the information given by M/s Raja Aederi Consultants Pvt. Ltd..

73. PW-5, Mr. Shakeb Akhtar Khan stated that Chairperson, NDMC, remains in loop and is involved in various stages of tender approval process and in the present matter, the Chairperson did not cancel or recall the tender awarded to M/s Raja Aederi Consultants Pvt. Ltd., although Chairperson has such powers.

74. During cross-examination by Ld. Counsel for accused nos. 3 to 5, PW-5 admitted the suggestion that as per NIT (Ex. PW-5/DX-4 and Ex. PW-5/X, D-5) the eligibility criteria for bidder states that bidder may have completed work of consultancy services and the work of M/s Raja Aederi Consultants Pvt. Ltd. was limited to consultancy work and not to complete the work as per NIT and the condition as per NIT was also with regard to similar work related to consultancy.

75. PW-5, Mr. Shakeb Akhtar Khan further stated that when consultancy work for a particular project is going on, consultancy work of one portion may be completed and consultancy work of another portion may still be in progress or may be pending. PW-5 also stated that completion certification or occupation certificate may not be issued by the authority although consultancy work might have completed and consultancy work of another portion may still be in progress or may be pending. PW-5, Mr. Shakeb Akhtar Khan also stated that completion certificate or occupation certificate may not be

issued by the authority although the consultancy work might have been completed.

76. PW-5, Mr. Shakeb Akhtar Khan also stated that if the tender documents requires the bidder to submit experience certificate with the tender documents, it is mandatory for the bidder to submit Experience Certificate and if there is no such condition in the tender documents, bidder need not submit experience certificate with the tender documents. PW-5 also stated that completion of project will be dependent upon Consultancy Agreement as to “whether the Consultant has to give consultancy till the completion of the project”.

77. PW-9, Mr. Braham Prakash Verma, was the Assistant Account officer in NDMC. PW-9, Mr. Braham Prakash Verma stated that as per comparative statement (Ex. PW-1/C), M/s Raja Aederi Consultants Pvt. Ltd. was shown to have past experience pertaining to developing/upgrading mentioned in encircled portion 'X' and it is not mentioned whether it has done this work alone or as a Consortium. PW-9 admitted that as per Appendix of CPWD Manual, bidder is to obtain certificate regarding past experience of bidders, by level of officer of Executive Engineer, He further stated that it is the purview of technical examination committee to examine and verify the experience of bidders.

78. During cross-examination, PW-9, Mr. Braham Prakash Verma stated that technical and financial bids were opened in the presence of representative of bidders' firms and the comparative statement of the technical bids for the said stadium, Ex. PW-1/C was also attached with the tender register.

79. PW-9, Mr. Braham Prakash Verma admitted that responsibility of evaluating the documents submitted with the tender documents by bidders is of Board of Assessors. PW-9 also stated that he did not know in which year the clause regarding experience certificate to be certified by Executive Engineer, was introduced in CPWD Manual.

80. PW-9, Mr. Braham Prakash Verma stated that note dated 26.05.2006, Ex. PW-9/DX-1, was prepared by Auditor of Accounts Branch and the said note sheet along with comparative statement was forwarded to him and after checking the same by comparing with the tender opening register, he had forwarded the same to V.K. Gulati and he had not recorded any discrepancy in the present case in writing.

81. PW-14, DSP Surender Malik, is the IO of the case. IO stated about the proceedings conducted by him. PW-14 stated that sanctions to prosecute accused R.S. Thakur was taken, he filed charge-sheet and he found that M/s Raja Aederi Consultants Pvt. Ltd.

was not eligible for the project of Talkatora Stadium and he was not having the requisite experience and all the accused persons got the tender in favour of M/s Raja Aederi Consultants Pvt. Ltd.

82. PW-14, DSP Surender Malik stated that he could not say whether any loss has been caused to Government ex-chequer or not in the present matter and during his entire investigation, he did not find that work done by M/s Raja Aederi Consultants Pvt. Ltd. was sub-standard or was not up to the mark and he did not find any evidence that M/s Raja Aederi Consultants Pvt. Ltd. had not performed the work or had taken amount without performing the work.

83. PW-14, DSP Surender Malik during cross-examination by accused no. 2 to 5 stated that in the year 2006, there was no specific criteria or guideline for appointment of Architect Consultants in NDMC and the procedure for civil works as per CPWD Manual was being followed.

84. PW-14, DSP Surender Malik stated that recommendations made in the note, Ex. PW-2/E were seen by Chief Architect and approved by Engineer in Chief. PW-14 stated that there is no usual procedure for pre-verification/verification of genuineness of documents submitted by bidder. PW-14 stated that tender documents submitted by the bidders at the stage of EOI are not on record. PW-

14 also stated that on the slide no.2 of the said Presentation contained in CD, Ex. PW-14/DX-2, there is a mention of Consortium of M/s Raja Aederi Consultants Pvt. Ltd. and M/s Sterling Engineering Services Pvt. Ltd..

### **Analysis**

85. The first point to be considered is whether accused no.1, R.S. Thakur, was aware that accused no.5, M/s Raja Aederi Consultants Pvt. Ltd., was not eligible and despite that considered bid of accused no.5. The second point to be considered is whether accused no.2, V.K. Gulati, was aware that accused no.5 was not having experience as per NIT (Notice Inviting Tender) issued by NDMC and has favoured the accused no.5 in getting tender though it was not eligible to apply.

86. It is noted that accused no.1 R.S. Thakur had issued a notice inviting EOI (expression of interest) for appointment of Consultant for stadia projects, seeking information about similar project costing above Rs. 30 crores executed in past three years, name of client, scope of services, value of work and time period and number of Architects, Planners, Designers, employed by applicant. In response to notice inviting EOI, six applicants responded and the

accused no.1, R.S. Thakur, vide his note dated 05.01.2006, Ex. PW-5/E observed that M/s Consultant Engineers and M/s Kothari Associates were found to be eligible having adequate experience for the project and recommended that M/s Consultant Engineering Services (India) Pvt. Ltd. may be considered for the work of upgradation of Talkatora stadium and M/s Kothari & Associates may be considered for work of renovation/upgradation of Shivaji stadium.

87. M/s Raja Aederi Consultants Pvt. Ltd./accused no.5 was also applicant in the said EOI and the note dated 05.01.2006, Ex. PW-5/E shows that M/s Raja Aederi Consultants Pvt. Ltd. and other three applicants were not considered qualified for the aforesaid project. However, Chief Architect, Mr. Sanjeev Sen, recommended for evaluation of the responses submitted by all the six applicants by a Sub-Committee and the said Sub-Committee opined that the details provided by the applicant firms were not proper and recommended for calling of fresh bid after preparing proper bid documents with all the details.

88. The prosecution failed to place on record the documents, which the aforesaid six applicants had filed in response to the EOI (which was of 1 page), hence, it is not clear whether M/s Raja Aederi Consultants Pvt. Ltd. had claimed experience, as required in the said EOI and it also cannot be said what were the documents or details

considered by accused no.1 while recommending names of Consultant Engineers and M/s Kothari and Associates for upgradation of Shivaji and Talkatora Stadiums. Further, there is no document on record to show that what was the material before the Sub-Committee at the time of considering the applications, filed by six applicant including M/s Raja Aederi Consultants Pvt. Ltd., in response to the EOI. Therefore, it is not clear what was the basis of R.S. Thakur, accused no.1, not considering M/s Raja Aederi Consultants Pvt. Ltd. qualified. It is also noted that Sub-Committee observed that details furnished by six companies were not proper. Again, it is not clear that what were those details which the Sub-Committee noted at that time.

89. In response to the Notice Inviting Tender (Which was of 27 pages), detailed bids were filed by the six companies including M/s Raja Aederi Consultants Pvt. Ltd., with the Executive Engineer, accused no.2, who found that two companies M/s Raja Aederi Consultants Pvt. Ltd. and M/s Kothari & Associates, fulfilled the eligibility criteria and the matter was forwarded by accused no.1, R.S. Thakur to Board of Assessors for consideration and the bid was evaluated and after technical and financial evaluation, M/s Raja Aederi Consultants Pvt. Ltd. was found to be lowest bidder and was granted Contract.

90. The prosecution has failed to establish that accused no.1, R.S. Thakur was aware that M/s Raja Aederi Consultants Pvt. Ltd. was not having requisite experience and was not eligible as per the condition mentioned in NIT and despite that considered/ forwarded the bid of M/s Raja Aederi Consultants Pvt. Ltd. and granted them favour. The documents filed by Raja Aederi at the time of expression of interest (of one page), are not before the Court and only the documents in respect of the NIT (of 27 pages) are on record, therefore, it cannot be said what were the facts within the knowledge of R.S. Thakur to hold M/s Raja Aederi Consultants Pvt. Ltd. disqualified at the time of Expression of Interest. M/s Raja Aederi Consultants Pvt. Ltd. may have filed number of additional documents in response to the NIT which was detailed one, requiring applicants to file number of details in various formats. PW-5, Mr. Shakeb Akhtar Khan has already stated that the conditions of EOI and NIT were different. Therefore, the version of the prosecution that accused no.1., R.S. Thakur was aware that Raja Aederi was not qualified and even then processed his case, is not substantiated.

91. Further the subsequent events and the procedure adopted by NDMC for consideration of the bids, only shows that it was the Board of Assessors, consisting of different high ranking officials having experience in different fields, considered the bid documents and the experience of different applicants and evaluated the technical

and financial bid and gave marks. It rule out that accused no.5, M/s Raja Aederi Consultants Pvt. Ltd. was favoured by accused no.1, R.S. Thakur.

92. Now coming to the role of accused no.2 in the aforesaid matter. The accused no.2 had no role at the time of inviting the application through Expression of Interest. Accused no.2 V.K. Gulati has considered the documents filed by three companies i.e. M/s Architectural Grid, Kothari & Associates and M/s Raja Aederi Consultants Pvt. Ltd., in response to Notice Inviting Tender (NIT). Since M/s Architectural Grids had not filed details as per bid, hence, was found to be ineligible and was disqualified. The bids filed by two companies M/s Raja Aederi Consultants Pvt. Ltd. and Kothari & Associates were found to be in order. Accused V.K. Gulati had cleared both the companies stating that they were having adequate experience and were eligible with further mentioning in the Note dated 29.05.2006 (Ex. PW-1/D2) that originals are yet to be seen. It is noted that neither Kothari and Associates nor M/s Raja Aederi Consultants Pvt. Ltd., accused no.5, had placed on record any experience certificate or any document in support of their experience but it appears that both the companies were held qualified by accused no.2, V.K. Gulati, Executive Engineer on the basis of details filled in bid documents which included the Appendix A and B, regarding their experiences. Had accused no.2 was to favour accused no.5, M/s

Raja Aederi Consultants Pvt. Ltd., he would not have qualified both the companies and would not have written that original documents are yet to be seen in the aforesaid Note dated 29.05.2006 (Ex. PW-1/D2).

93. It is further clear from the testimony of PW-5, Mr. Shakeb Akhtar Khan, Superintending Engineer, that bid was filed with Executive Engineer and thereafter it was placed before Board of Assessors consisting of Experts from different disciplines to analyse the documents submitted by applicants, from their own perspective. PW-5 categorically stated that Executive Engineer did not have independent power to award contract and acts of Executive Engineer are scrutinized by higher officials. It is also clear from the testimony of PW-5 and material on record, that Board of Assessors considered the bid documents, experience of both the companies and gave marks at the time of technical evaluation after analysing information and on the basis of presentation made by both the said companies. Thereafter financial bid was opened and evaluated and marks were given and M/s Raja Aederi Consultants Pvt. Ltd. was found to be the lowest bidder.

94. Both the prosecution witnesses, PW-5, Mr. Shakeb Akhtar Khan, Superintending Engineer, CPWD and PW-4, Mr. Anant Kumar, Chief Engineer, NDMC, elaborated the functions and constitution of Board of Assessors and have stated that all documents were checked

by Board of Assessors and they found accused no.5, M/s Raja Aederi Consultants Pvt. Ltd. to be eligible and lowest bidder. PW-4, Mr. Anant Kumar, Chief Engineer, NDMC and PW-5, Mr. Shakeb Akhtar Khan, Superintending Engineer, CPWD, categorically stated that Board of Assessors consisted of persons having experience in different fields so that they could analyse the relevant documents of bid, as per their fields. Here, it is also relevant that in technical evaluation of bid, there was specific column "experience in similar projects" and marks were awarded by Board of Assessors, therefore, it is clear that Board of Assessors had seen the details filed by aforesaid Company in bid documents.

95. It is also noted that the Board of Assessors has given marks to applicants in technical evaluation and financial bid was to be opened and evaluated later on. Therefore, even at the time of technical evaluation of bid, it was not clear who would be getting the Contract.

96. PW-4, Mr. Anant Kumar, Chief Engineer, stated that in two bids system i.e. technical and financial, the Executive Engineer is not required to check the experience at the time of issuing bid documents. Further after technical evaluation by Board of Assessors, the matter was placed before Chairperson for acceptance of the technical bid and permission to open financial bid and after approval,

financial bid was opened and then name of accused no.5 was recommended on finding him the lowest bidder and after approval of Chairperson, the contract was awarded to M/s Raja Aederi Consultants Pvt. Ltd., accused no.5.

97. It will not be out of place to mention here that entire documents were also placed before Financial Adviser of NDMC and he also did not raise any objections.

98. It is worthwhile to mention that none of the Member of Board of Assessor except accused no.1 and 2 has been charge-sheeted that they favoured M/s Raja Aederi Consultants Pvt. Ltd. nor the prosecution examined any witness from Board of Assessors to show that they solely relied on the Note-sheet dated 29.05.2006, Ex. PW-1/D-2, where V.K. Gulati stated "both companies to be eligible and original documents are to be seen" or on the comparative statement of technical bid, Ex. PW-4/K, prepared by Virender Kumar, Assistant, forwarded by Mr. B.P. Verma, Assistant Accounts Officer, and then signed by Executive Engineer.

99. One of the contention of Ld. PP is that Executive Engineer has given its report that M/s Raja Aederi Consultants Pvt. Ltd. was eligible, although, had not found any Experience Certificate in support of experience of M/s Raja Aederi Consultants Pvt. Ltd..

100. The prosecution failed to show that there was any condition or requirement of filing any Experience Certificate rather PW-5, Mr. Shakeb Akhtar Khan, Superintendent Engineer, CPWD, has stated that since there was no such condition in bid, hence, no Experience Certificate was needed. Further, the prosecution failed to point out any rule or guideline applicable to NDMC which require filing of Experience Certificate along with the bid documents.

101. M/s Raja Aederi Consultants Pvt. Ltd. was not having experience, as claimed by it in Appendix A and Appendix B, which was the experience of M/s Sterling Engineering Consultancy Services Pvt. Ltd., a structural consultancy company and if accused no. 1 or 2 or Board of Assessors had insisted for further details regarding documents in support of experience of the applicant, the fact that M/s Raja Aederi Consultants Pvt. Ltd. was not having experience of renovation of any sports stadium, would have been revealed. Here it is worthwhile to mention that accused no.2 had stated, accused no.5, M/s Raja Aederi Consultants Pvt. Ltd. and M/s Kothari & Associates eligible on the basis of details filled in "Appendix A" and "Appendix B" of bid documents, although none of these two companies had filed any Experience Certificate or any document in support of experience claimed in Appendix A and B of bid document which further rule out the possibility of accused no. 1 and 2 favouring accused no.5.

Admittedly it is not the case of prosecution that NDMC has suffered any pecuniary loss or accused no.1 or 2 obtained any pecuniary advantage.

102. In the facts and circumstances, it cannot be said that accused no.1, R.S. Thakur and accused no.2, V.K. Gulati had favoured M/s Raja Aederi Consultants Pvt. Ltd. when the Board of Assessors, which consisted of a number of persons, experts from different fields, had analysed and looked in to bid documents submitted by applicants and found M/s Raja Aederi Consultants Pvt. Ltd. and Kothari & Associates eligible and having requisite experience. No criminality can be attached to the act of accused no.1 and 2. Under the facts and circumstances, the prosecution has failed to establish beyond reasonable doubt that accused no.1 and 2 has committed misconduct as defined under Section 13 (1) (d) of P C Act.

103. Here it is relevant to refer the judgment **State of M.P. Vs. Sheetla Sahai**. Hon'ble Supreme Court observed that :-

*“We would proceed on the basis that two divergent opinions on the construction of the contract in the light of the stand taken by the World Bank as also the earlier decision taken by the State was possible. That, however, would not mean that a fresh decision could not have been taken keeping in view the exigencies of the situation. A decision, to that effect was not taken only by one officer or one authority. Each one of the authorities was ad idem in their view in the decision making process. Even the Financial Adviser who was an independent person and who had nothing to do with the implementation of the project made recommendations in favour of the contractors stating that if not in law but in equity they were entitled to the additional amount.”*

104. The present case is squarely covered by the aforesaid judgment. In the present case, the Board of Assessors had analyzed the documents and had then given marks to both the companies after documents being considered by Experts of respective fields and found M/s Raja Aederi Consultants Pvt. Ltd. eligible and lowest bidder. Further, Financial Adviser of NDMC also considered the matter and recommended the name of accused no.5, M/s Raja Aederi Consultants Pvt. Ltd..

105. I need not delve further to the judgments cited by Ld. PP as none of the aforesaid judgment is applicable to facts and

circumstances of the present case when the prosecution failed to establish that accused no.1 and 2 had committed any misconduct as defined under Section 13 (1) (d) of Prevention of Corruption Act.

**Now the next question arises whether offence of cheating U/S 420 IPC is made out.**

106. Now turning to the next question whether M/s Raja Aederi Consultants Pvt. Ltd. had put NDMC under deception and acted dishonestly and fraudulently and got contract by mis-representing or concealing the facts and thereby committed cheating.

107. Before advertng to the facts of case, it will be beneficial to have a glance of the ingredients of the offence of cheating as defined in Section 415 IPC, which are as follows :-

- "1. Deception of any person.*
- 2. (a) Fraudulently or dishonestly inducing that person :*
  - (i) to deliver any property to any person, or*
  - (ii) to consent that any person shall retain any property, or*
- (b) Intentionally inducing that person to do or omit to do anything which he would not do or omit if he were not so deceived, and which act or omission causes or is likely to*

*cause damage or harm to that person in body, mind, reputation or property.*

*However when in pursuance of deception so exercised, any property is delivered, the said act of cheating becomes punishable u/s 420 IPC.”*

108. The offence of cheating is made of two ingredients. Deception of any person and fraudulently or dishonestly inducing that person to deliver any property to any person or to consent that any person shall retain any property. The word “dishonestly” as defined in Section 24 of the IPC implies a deliberate intention to cause wrongful gain or wrongful loss and when this is coupled with deception and consequent of delivery of property, the offence of cheating as defined under Section 415 of IPC is completed.

**Testimonies of witnesses relevant for deciding the aforesaid point.**

109. Testimonies of PW-4, Mr. Anant Kumar, Chief Engineer, NDMC, PW-5, Mr. Shakeb Akhtar Khan, Superintending Engineer, Civil, NDMC, PW-6, Mr. T.C. Krishnaswamy,

CEO, National Sports Club, Mumbai, PW-7, Mr. Amol Prabhu, Partner, M/s Shashi Prabhu & Associates, PW-8, Mr. Kamal Hadker, Managing Director, M/s Sterling Engineering Consultancy Services Pvt. Ltd., PW-11, Mr. Jai Singh Choraria, the then Honorary Regional Secretary in the National Sports Club of India and PW-14, DSP Surender Malik are relevant. The relevant portions of testimonies of PW-4, PW-5 and PW-14 have already been discussed earlier. Now I turn to the testimonies of PW-6, PW-7, PW-8 and PW-11.

110. PW-6, Mr. T.C. Krishnaswamy, CEO, National Sports Club, Mumbai, stated that Occupation Certificate for NSCI Stadium was issued on 04.04.2009 and Part Occupation Certificate for second floor of Sports Hall Building was issued on 06.06.2011. PW-6, Mr. T.C. Krishnaswamy, stated that for NSCI, Mumbai, M/s Raj Pishori & Associates was appointed as Architectural Consultant vide Agreement, Ex. PW-6/P and their Agreement was finalized vide letter, Ex. PW-6/C. Thereafter, M/s Shashi Prabhu & Associates were appointed as Architect Consultants. During cross-examination, PW-6, Mr. T.C. Krishnaswamy stated that he had never dealt with these documents during the course of his employment.

111. PW-7, Amol Prabhu, Partner, M/s Shashi Prabhu & Associates, stated that M/s Sterling Engineering Consultancy Services Pvt. Ltd. is Structural Engineering Company engaged by his firm in

services relating to NSCI stadium, Mumbai. Earlier M/s Sterling Engineering Consultancy Services Pvt. Ltd. was engaged by a consultant M/s Raj Pishori & Associates for works pertaining to NSCI Stadium, Mumbai. PW-7 stated that after termination of services of M/s Raj Pishori & Associates due to some problems, his firm was engaged by NSCI. PW-7 stated that during his engagement, M/s Raja Aederi Consultants Pvt. Ltd., was never engaged as Architect. PW-7, Amol Prabhu stated that he cannot say if his firm had issued any certificate to M/s Sterling Engineering Consultancy services Pvt. Ltd. before 02.07.2009. PW-7, Amol Prabhu stated that as far as he remember, services of M/s Raj Pishori & Associates were terminated by NSCI, Mumbai, somewhere in the year 2007-2008 and thereafter, their services were hired and they had also continued to hire the services of M/s Sterling Engineering Consultancy Services Pvt. Ltd. for carrying out the structural Engineering Consultancy work.

112. PW-8, Mr. Kamal N. Hadker, Director, M/s Sterling Engineering Consultancy Services Pvt. Ltd. deposed that his company provides structural design consultancy services and he was authorized by the Board of Directors to take decisions on behalf of the company and his company had never given any architectural consultancy services. PW-8, Mr. Kamal N. Hadker stated that M/s Raja Aederi Consultants Pvt. Ltd. had worked with him on various projects for designing of building and he did not work with him on any

project pertaining to stadium at any point of time. PW-8, Mr. Kamal N. Hadker stated that his company has given structural designs on different types of projects like Sports Complexes, Indira Gandhi Stadium, Delhi, Wankhede Stadium, Mumbai, Chepauk Stadium, Chennai and other multi stories buildings. He worked on NSCI Project, Worli Mumbai, in which there were two architects namely Mr. Raj Pishori and Mr. Shashi Prabhu and the entire complex comprising of the main central dome as well as ancillary structure around it was designed by their company and Mr. Shashi Prabhu was responsible for Municipal Approvals and General Advice on designing and there was no written agreement between their company and Raj Pishori and Mr. Shashi Prabhu for NSCI.

113. PW-8, Mr. Kamal N. Hadker stated that he received an offer from M/s Raja Aederi Consultants Pvt. Ltd. to work for one of the stadium for Commonwealth Games. M/s Raja Aederi Consultants Pvt. Ltd. offered them that they should take responsibility of designing the structure if M/s Raja Aederi Consultants Pvt. Ltd. succeeds in securing an assignment in Delhi and this offer happened on telephone and there was no written offer or talks and there was no correspondence in writing in this regard with M/s Raja Aederi Consultants Pvt. Ltd.. PW-8, Mr. Kamal N. Hadker stated that he did not participate as they were busy and he stated to M/s Raja Aederi Consultants Pvt. Ltd. that they could have other persons for the simple

refurnishing project in Delhi and therefore M/s Raja Aederi Consultants Pvt. Ltd. did not contact him regarding this work.

114. PW-8, Mr. Kamal N. Hadker stated that he and M/s Raja Aederi Consultants Pvt. Ltd. confirmed their intention to collaborate in the event of pre-qualification. They agreed to handle work of NDMC. PW-8, Mr. Kamal N. Hadker also stated that vide MOU, Ex. PW-4/G, their company agreed to collaborate with Mr. Raja Aederi, if provided any work by NDMC regarding stadium. PW-8 stated that, Ex. PW-8/A (page nos. 177 to 183 of D-6) were completed by M/s Sterling Engineering Consultancy Services Pvt. Ltd. PW-8, Mr. Kamal N. Hadker also stated that vide Ex. PW-8/B, he and Mr. Raja Aederi agreed to work for improvement/upgradation of Shivaji Stadium and Talkatora Stadium at New Delhi, if the contract awarded to this Group. PW-8, Mr. Kamal N. Hadker also exhibited the Board Resolution passed by the Board of Directors of M/s Raja Aederi Consultants Pvt. Ltd. as Ex. PW-8/C. PW-8, Mr. Kamal N. Hadker stated that vide letter dated 23.05.2006, Ex. PW-8/E, M/s Raja Aederi Consultants Pvt. Ltd. and their company authorized Mr. Uday Bhat for designing/completion of the project pertaining to improvement/upgradation of Shivaji Stadium and Talkatora Stadium, New Delhi.

115. PW-8, Mr. Kamal N. Hadker further stated that although

there was no consortium with M/s Raja Aederi Consultants Pvt. Ltd. earlier in writing but there was consent of their company that in case any work is awarded to M/s Raja Aederi Consultants Pvt. Ltd., his company will give services and after signing aforesaid documents, he will send these documents to M/s Raja Aederi Consultants Pvt. Ltd. for necessary action and M/s Raja Aederi Consultants Pvt. Ltd. did not sign in his presence.

116. During cross-examination by Ld. Counsel for accused nos. 3 to 5, PW-8, Mr. Kamal N. Hadker stated that the MOU dated 18.05.2006 was entered between M/s Raja Aederi Consultants Pvt. Ltd. and M/s Sterling Engineering Consultancy Services Pvt. Ltd. and he was aware that MOU was to be submitted by M/s Raja Aederi Consultants Pvt. Ltd. with NDMC for the purpose of applying for the tender of the aforesaid stadiums and for carrying out structural Engineering Consultancy work on behalf of M/s Raja Aederi Consultants Pvt. Ltd. for the aforesaid stadium and since considerable time had elapsed from the time when M/s Raja Aederi Consultants Pvt. Ltd. had applied for the tender, they were not in a position to carry out the structural consultancy work for them in relation to the aforesaid stadium.

117. PW-8, Mr. Kamal N. Hadker stated that as per letter dated 23.05.2006, Ex. PW-8/E his company and M/s Raja Aederi

Consultants Pvt. Ltd. had authorized Mr. Uday Bhat, Architect, to represent the companies before NDMC in relation to the aforesaid two stadiums. PW-8, Mr. Kamal N. Hadker stated that in the year 2005, their company had completed the structural engineering consultancy services in relation to the central hall and major steel roof of NSCI stadium and pursuant to the completion of structural consultancy services in 2005, their company was also undertaking further structural engineering consultancy services in relation to other ancillary structures being built around the main dome of NSCI stadium.

118. PW-8, Mr. Kamal N. Hadker stated that since their company had completed the structural engineering consultancy work in relation to the Central Hall and major steel roof of NSCI stadium in the year 2005, the same could have been considered as a completed work in relation to experience of their company and the aforesaid ancillary work could have been shown in the list of ongoing projects in relation to experience of their company. PW-8, Mr. Kamal N. Hadker stated that in the profile of the company, Ex. PW-8/DX-8 and Ex. PW-8/DX-10, they have shown NSCI stadiums (Ex. PW-8/DX-1) as sports complexes. PW-8, Mr. Kamal N. Hadker stated that since their company had completed the aforesaid work, same could have been shown in Ex. PW-5/DX-2 and Ex. PW-4/N as well as in Ex. PW-5/DX-1 and Ex. PW-4/M i.e. Ongoing Works.

119. PW-8, Mr. Kamal N. Hadker, Director, M/s Sterling Engineering Consultancy Services Pvt. Ltd. stated that Occupation Certificate/Completion Certificate issued by Authority has no connection with structural engineering consultancy work done by their company and structural engineering consultancy services were completed much prior to issuance of Occupancy certificate or Completion certificate. PW-8 stated that the documents/Agreements submitted by M/s Raja Aederi Consultants Pvt. Ltd. with NDMC were in his knowledge and with his consent.

120. PW-11 Mr. Jai Singh Choraria, the then Honorary Regional Secretary in the National Sports Club of India, Mumbai, stated that he had provided required information to CBI.

### **Analysis**

121. Before proceeding further, it would be appropriate to reproduce the mandatory requirement as mentioned in bid documents, Ex. PW-5/DX-4, issued by NDMC.

*"The applications for Shivaji Stadium were invited from reputed registered Architects/Architectural **firms/Consortiums with Council of***

**Architecture under the provision of Architects Act to provide Architectural consultancy/services for development of a training venue for Hockey event** with regard to Common Wealth Games – 2010 to be held in Delhi. The existing Shivaji Stadium was required to be redeveloped for training venue of hockey event (CWG:2010) by making addition/alteration, up-gradation, improvement to existing stadium, various existing services and area around stadium.

The eligibility criteria was as under :-

a) Prior expertise and involvement in developing/upgrading competition sports venue for hockey etc. as per norms of Common Wealth Games Federation/International Sports Federation.

b) The consultant should have sufficient number of technical and administrative employees for proper execution of work. The scope of work includes architectural work, civil/electrical engineering work, structural work, electronic, air-conditioning, communication and landscaping work. Consultant shall supply list of technical staff keeping scope of work in mind for better appreciation by owner department.

(c) Financial strength of consultant shall be adequate to handle the project. The consultant shall submit his latest financial return duly vetted by Chartered Accountant.

(d) **Three similar completed works of consultancy services**

**costing not less than 10 crores in last five years.**

**Or**

**Two similar completed works of consultancy services costing not less than 15 crores in last five years.**

**Or**

**One similar completed work of consultancy services costing not less than 20 crores during last five years.**

**Similar Work means :-**

**Consultancy work of competition venue of sport preferably hockey event of international standard.**

**(e) The bids will be evaluated in following manners :-**

**The consultant qualify initial criteria as set out in eligibility criteria above, will be evaluated for following criteria by scoring method on the basis of details submitted by them :-**

**(a) Financial soundness of consultant including last five years turnover and solvency certificate = 20 Marks**

**(b) Experience in similar nature of work = 30 Marks**

**(c) Presentation and critical evaluation of existing facilities and concept plan. = 20 Marks**

**(d) Key Personnel & Establishment = 30 Marks**

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**100 Marks**

*In case of Talkatora Stadium, the tender conditions (as mentioned in Ex. PW-5/X) were almost same except change in condition (a) of the eligibility criteria where in place of the experience of hockey, the experience of designing a Boxing Stadium was needed and the cost/value of similar nature of work done in past was higher by Rs.5.0 Crores in each case to the condition as mentioned in the eligibility criteria."*

122. The plain reading of the bid documents, Ex. PW-5/DX-4, issued in respect of Shivaji stadium show that registered Architectural Company or the Consortium can apply for providing architectural consultancy services for development of training venue. The applicant must have experience of renovation/upgradation of venue of Sport of three similar completed works of consultancy services costing not less than Rs. 10 crores in last five years or two similar works not less than Rs. 10 crores and one similar completed work costing not less than Rs. 20 crores during last five years. It has been clarified that similar work mean consultancy work of competition venue of sport preferably hockey event of International standard.

123. Similar are the conditions for NIT issued in respect of Talkatora Stadium and it is clarified in bid documents that the aforesaid experience should be in the sports venue preferably of boxing. The NIT further clarified in its Clause VI (e) that bid of consultant who qualify in aforesaid initial criteria shall be evaluated.

124. Accused no.5, M/s Raja Aederi Consultants Pvt. Ltd. had applied as an individual company and the same is apparent from bid documents particularly Form 'C', "Structure and Organization", (Ex. PW-4/J and Ex. PW-4/I), where it is clearly mentioned as "Private Limited Company" and the space against "Consortium" has been left blank. This fact is also clear from Agreements, Ex. PW-1/G and Ex. PW-1/H, entered into between M/s Raja Aederi Consultants Pvt. Ltd. and NDMC in respect of renovation/upgradation of aforesaid stadiums and there is no mention of any Consortium in the said Agreements. PW-8, Mr. Kamal Hadker also stated that there was no consortium with M/s Raja Aederi Consultants Pvt. Ltd. but their company consented to provide services in case work is awarded to M/s Raja Aederi Consultants Pvt. Ltd.. It is also relevant to mention here that as per Clause-7.02 of Agreement, Ex. PW-1/G and Ex. PW-1/H, consultant can appoint specialized consultant in consultation with the owner i.e. NDMC, if need arise but no fee would be claimed against it. It is also apparent from material on record that M/s Raja Aederi Consultants Pvt. Ltd. did not appoint M/s Sterling Engineering Consultancy Services Pvt. Ltd. as Consultant as per Clause 7:02 of Agreement.

125. Therefore, it is clear that M/s Raja Aederi Consultants Pvt. Ltd. has filed the bid as individual company and not as consortium and

has also not appointed M/s Sterling Engineering Consultancy Services Pvt. Ltd. as specialized consultant in consultation with NDMC.

126. M/s Raja Aederi Consultants Pvt. Ltd. had filled the Appendix A, (Ex. PW-5/DX-2) and Appendix B, Ex. (PW-4/N) in bid documents and same is reproduced hereinafter :-

### **Appendix 'A' T-Bid**

Details of all marks to Similar-class (works related to Sports stadias) completed during last five years :

Sl. No.	Name of Project	Owner	Cost of work in crores	Date of Start	Stipulated date of completion	Actual date of completion	Details of litigations / Arbitration, if any	Remarks
1.	Indira Gandhi Indoor Stadium, New Delhi	Delhi Development Authority		1980		1982		
2.	Wankhade Stadium, Mumbai	Bombay Cricket Association		1971		1972		
3.	Sharjah Cricket	Mr. Buktahir Sharjah,						

	Stadium, UAE	UAE						
4.	Multi- purpose Stadium, Thane, Maharashtr a	Thane Municipality, Maharashtra						
5.	Andheri Sports Complex, Mumbai	Bombay Municipality						
6.	Kalinga Stadium, Bhubanesh war, Orissa state.							
7.	Stadium Vasco, Goa	Sports Authority, Goa						
8.	Cricket Stadium, Jullender							
9.	<b>NSCI Sports Stadium, Worli, Mumbai</b>	<b>National Sports Club of India</b>	<b>150</b>	<b>2004</b>		<b>2005</b>		

**Signature of Applicant**  
**Seal of M/s Raja Aederi Consultants Pvt. Ltd.**  
**and signature of Uday Bhat**

## **Appendix 'B' T-Bid**

### **Details of all works of ongoing works of Similar-class** **(Works related to Sports Stadias)**

Sl. No.	Name of Project	Owner	Cost of work in crores	Date of Start	Stipulated date of completion	% age progresses	Slow Progress, if any	Remarks
1.	National Sports Club of India	National Sports Club of India	100.00	2004	End of 2007	75-80%	NA	

**Signature of Applicant**

**Seal of M/s Raja Aederi Consultants Pvt. Ltd.**

**and signature of Uday Bhat**

127. The accused no. 3 to 5 have filed same Appendix 'A' and 'B' in both the bids. It is clear from bid documents, Ex. PW-5/DX-4 and Ex. PW-5/X and NIT (Ex. PW-5/DX-8) that

experience of architectural consultancy was required and only architectural consultant could apply for tender.

128. The Appendix-A, Ex. PW-5/DX-2 is with regard to experience of architectural consultancy of those stadium projects which it had designed and completed as Architect in last five years. M/s Raja Aederi Consultants Pvt. Ltd. furnished a list of nine stadium projects including the NSCI stadium and claimed to have completed these stadia. The cost of NSCI stadium was shown as Rs. 150 crores and the years of its commencement and completion were shown as 2004 and 2005 respectively.

129. In Appendix-B, Ex. PW-4/N, which was for ongoing stadium works and projects, M/s Raja Aederi Consultants Pvt. Ltd. is shown to have started work in NSCI stadium in the year 2004 and expected time of completion of this work is stated to be in end of 2007 and claimed to have completed 75-80% of work in the said stadium.

130. It has emerged from testimony of PW-8, Mr. Kamal Hadker that M/s Raja Aederi Consultants Pvt. Ltd. was not involved in project of NSCI as claimed by it in "Appendix A" and "Appendix B" of bid documents. It was M/s Sterling Engineering Consultancy Services Pvt. Ltd., a structural engineering company who had worked in NSCI as Structural Consultant and not as Architectural Consultant. It is

further revealed that M/s Raj Pishori & Associates and after it M/s Shashi Prabhu and Associates were engaged and worked as Architect Consultant for Worli Project of NSCI and M/s Sterling Engineering Consultancy Services Pvt. Ltd. was not appointed/engaged by NSCI but was engaged by above two consultants, M/s Shashi Prabhu & Associates and M/s Raj Pishori & Associates. It only shows that M/s Raja Aederi Consultants Pvt. Ltd. was not having any such experience as claimed in "Appendix A" and "Appendix B".

131. In bid documents, Ex. PW-5/DX-4 and Ex. PW-5/X, there is nothing to point out that the aforesaid work was done by M/s Sterling Engineering Consultancy Services Pvt. Ltd. and it has only surfaced during the investigation conducted by the CBI. Accused no.5, M/s Raja Aederi Consultants Pvt. Ltd. has not written anywhere in bid documents that the said experience was of M/s Sterling Engineering Consultancy Services Pvt. Ltd. and not of accused no.5, M/s Raja Aederi Consultants Pvt. Ltd. It is also not mentioned in any of bid documents that this experience was of structural consultancy of M/s Sterling Engineering Consultancy Services Pvt. Ltd.. Accused no.5, M/s Raja Aederi Consultants Pvt. Ltd. did not disclose in any of the bid documents or before NDMC that it did not have experience of architectural consultancy of renovation of Sports Stadium, as desired in NIT. It is clear that if M/s Raja Aederi Consultants Pvt. Ltd. had mentioned that it did not have experience of architectural consultancy

of renovation of Sports Stadium, it would have been outrightly disqualified. Accused no. 3 to 5 have misrepresented the facts and did not disclose that it did not have any such experience.

132. Ld. Counsel for accused contended that accused no.5 has mentioned experience of M/s Sterling Engineering Consultancy Services Pvt. Ltd. as they can use the experience of said company in view of MOU and letter dated 18.05.2006 and work of structural consultancy can be considered.

133. Accused no.5, M/s Raja Aederi Consultants Pvt. Ltd. had filed an MOU, Ex. PW-4/G with bid documents and as per said MOU, M/s Raja Aederi Consultants Pvt. Ltd. would look after architectural consultancy work and M/s Sterling Engineering Consultancy Services Pvt. Ltd. would look after the structural consultancy work. There is a letter dated 18.05.2006, Ex. PW-8/B, written by Raja Aederi , Director, M/s Raja Aederi Consultants Pvt. Ltd. and Mr. Kamal Hadkar, Director of M/s Sterling Engineering Consultancy Services Pvt. Ltd. to NDMC that they would complete the work, if the work is awarded to accused no.5.

134. It has already been observed that M/s Raja Aederi Consultants Pvt. Ltd. had not applied as a Consortium Partner, therefore, the MOU and the letter dated 18.05.2006, filed with bid

documents are of no consequence. Even otherwise it has emerged that M/s Sterling Engineering Consultancy Services Pvt. Ltd. did not have experience of architectural consultancy as required under NIT. The Structural Engineering Consultancy experience of M/s Sterling Engineering Consultancy Services Pvt. Ltd. cannot be considered as it was not as per the NIT and as it was not the consortium applicant. The experience of non applicant could not have been considered.

135. It is relevant to refer clause 2 of “Instructions to Bidders, Terms & Conditions” of bid documents, Ex. PW-5/DX4 and PW-5/X, which shows that if tender is filed by firm, it must be signed by all the partners of the firm and person filing tender shall file POA that he has authority to bind all the partners in matter pertaining to contract. If the NDMC is entering into Contract with partnership firm, it ensures that company and the partner should be bound by Agreement. It is also clear when any bid is made in Consortium, the Consortium is liable. Here, merely filing the MOU and writing letter to NDMC which was neither the condition of the bid documents nor as per CPWD Manual, were of no consequence. Needless to say that without being Consortium, M/s Sterling Engineering Consultancy Services Pvt. Ltd. was not privy to the Contract with NDMC and NDMC could not have enforced the Contract against M/s Sterling Engineering Consultancy Services Pvt. Ltd. in the event of M/s Sterling Engineering Consultancy Services Pvt. Ltd. not adhering to the Contract.

136. It is worthwhile recording here that M/s Sterling Engineering Consultancy Services Pvt. Ltd. did not perform any work in the said project with M/s Raja Aederi Consultants Pvt. Ltd. and had left stating that it had become busy and M/s Raja Aederi Consultants Pvt. Ltd. can get work from some other structural engineering company. Needless to say that contract was for 30 months and only 4-5 months have passed since M/s Raja Aederi Consultants Pvt. Ltd. applied for bid. Here it is worthwhile recording that M/s Raja Aederi Consultants Pvt. Ltd. had got Contract by showing experience of M/s Sterling Engineering Consultancy Services Pvt. Ltd. which company did not work at all.

137. Therefore, it is clear that MOU, Ex. PW-4/G and letter dated 18.05.2006, Ex. PW-8/B, written to NDMC by these companies, M/s Raja Aederi Consultants Pvt. Ltd. and M/s Sterling Engineering Consultancy Services Pvt. Ltd., are of no consequence and does not, in any way, justify the act of accused no. 3 to 5, in giving false information in "Appendix A" and "Appendix B" of the bid documents.

138. However, if we assume that experience of structural engineering company can be considered under the said bid documents then the bid documents must have clearly mentioned, and

that would have opened the door for structural engineering consultants to apply for the project but since experience of architectural consultancy was needed, structural consultancy is not mentioned in the bid documents. For this reason also experience of Structural Engineering Services Pvt. Ltd. cannot be considered.

139. Next contention of Ld. Counsel for accused nos. 3 to 5 is that there was no mis-representation as the accused had placed on record the list of projects undertaken by M/s Raja Aederi Consultants Pvt. Ltd. and list of projects completed by M/s Sterling Engineering Consultancy Services Pvt. Ltd. and M/s Sterling Engineering Consultancy Services Pvt. Ltd. has mentioned the name of NSCI in its list and M/s Raja Aederi Consultants Pvt. Ltd. did not mention the name of NSCI in its list. Therefore, it was clear that it was the experience of M/s Structural Engineering Company which was claimed by M/s Raja Aederi Consultants Pvt. Ltd. in its name in Appendix A and Appendix B. Ld. Counsel further submits that since all the facts were disclosed in the bid documents, there was no concealment, hence, Section 420 of IPC is not made out. Ld. Counsel for accused no. 3 to 5 referred the following judgments.

140. In ***Mohd. Pagarkar v. State (Union Territory of Goa, Daman and Diu), (1980) 3 SCC 110***, Court opined that mere disregard of relevant provisions of the Financial code as well as

ordinary norms of procedural behaviour of government officials and contractors, without conclusively establishing, beyond a reasonable doubt, the guilt of the officials and contractors concerned, may give rise to a strong suspicion but that cannot be held to establish the guilt of the accused. The established circumstances in this case also do not establish criminality of the appellants beyond the realm of suspicion and, in our opinion, the approach of the trial court and the High Court to the requirements of proof in relation to a criminal charge was not proper....”

141. In the judgment **Narender Kumar Vs. State (State of Delhi)**, Hon'ble Supreme Court observed that prosecution cannot establish its case merely on the basis of suspicion and moral believe, howsoever strong it may be or by taking support from weaknesses of defence case.

142. In the judgment **State of U.P. Vs. Nandu Vishwakarma & Ors.**, Hon'ble Supreme Court observed that two views are possible to be drawn up from the same set of facts – one in favour of the accused and other against the accused, the one favouring the accused should be accepted.

143. The contention of Ld. Counsel for accused nos. 3 to 5 is without any basis and merits summarily rejection. The question which

however now arises for consideration is as to what is the meaning of the phrase “*deceiving any person*” as used in the definition of cheating as provided in Section 415 IPC.

144. It had been held in the case of “Ram Narain Poply Vs. CBI”, AIR 2003 SC 2748 that deception of any person and fraudulently or dishonestly inducing that person to delivery any property to any person or to consent that any person shall retain any property, need not be by express words, but it may be by conduct or implied in the nature of the transactions itself.

145. In the case ***Swami Dharendra Mr. Brahamchari Vs. Shailendra Bhushan, 1995 Cr. L.J. 1810 (Delhi)***, Hon'ble Delhi High Court while dealing with the word *deceiving* as used in S. 415 IPC, observed that generally speaking “*deceiving*” is to lead into error by causing a person to believe what is false or to disbelieve what is true and such deception may be by words or by conduct. A fraudulent representation can be made directly or indirectly.

146. Hon'ble Allahabad High Court in the case ***P.M. Natarajan Vs. Krishna Chandra Gupta, 1975 Cr.L.J. 899 (All.)*** explained the word “*deceive*” as indicating inculcating of one so that he takes the false as true, the unreal as existent, the spurious as genuine.

147. Thus, it is clear that in all such cases of deception, the object of the deceiver is fraudulent. He intends to acquire or retain wrongful possession of that to which some other person has a better claim. Thus where a person parted away with a property while acting on such a representation of an accused believing in the truth thereof, it clearly amounts to deceiving the person. However, it is also important that the person practicing the deceit knows or has reason to believe the said representation to be false. Though in the true nature of things, it is not always possible to prove dishonest intention by direct evidence. It can be however proved by number of circumstances only from which a reasonable inference can be drawn.

148. It has already been mentioned that M/s Raja Aederi Consultants Pvt. Ltd. had applied as an individual company and not as Consortium and the "Appendix A" and "Appendix B" of bid documents clearly meant for filling up the experience of the applicant.

149. Further, M/s Raja Aederi Consultants Pvt. Ltd. did not mention in Appendix A or Appendix B that it was the experience of M/s Sterling Engineering Consultancy Services Pvt. Ltd. or that it was an experience of structural consultancy. It is clear from the bid documents that experience of architectural consultancy was required. Therefore, there was no scope for presumption that M/s Raja Aederi Consultants Pvt. Ltd. had filled up the experience of some other

company having experience in structural consultancy whose list of complete projects is filed along with bid documents. The plain reading of the Appendix A and B of bid documents clearly show that M/s Raja Aederi Consultants Pvt. Ltd. has claimed experience of having completed work of NSCI worth Rs. 100 crores. When the facts were plain and simply mentioned, there was no need for the NDMC to check and match the said experience with the projects of M/s Sterling Engineering Consultancy Services Pvt. Ltd. who was not the applicant and further when it was Structural Consultant. Here, it also need to be mentioned that in bid documents filed in response to NIT issued for renovation of Talkatora Stadium, M/s Raja Aederi Consultants Pvt. Ltd. has filed Appendix B immediately following the list of projects completed by it and before its organizational structure. Bare reading of the documents and sequence of documents filed with the bid shows that it was one of the project completed by M/s Raja Aederi Consultants Pvt. Ltd..

150. Further, there is nothing on record to show that M/s Sterling Engineering Consultancy Services Pvt. Ltd. was doing any project in NSCI which was in progress. There is a list of completed projects by M/s Sterling Engineering Consultancy Services Pvt. Ltd. but there is nothing on record to show any list of ongoing projects. There is nothing in the bid documents to even remotely suggest that the ongoing work as mentioned in "Appendix B" of bid documents was

being done by M/s Sterling Engineering Consultancy Services Pvt. Ltd.. List of ongoing project of M/s Sterling Engineering Consultancy Services Pvt. Ltd. is not on record.

151. From the totality of facts and circumstances, it is clear that M/s Raja Aederi Consultants Pvt. Ltd. has dishonestly misrepresented the facts in "Appendix A" and "Appendix B" of bid documents and has also concealed the fact that it did not had experience as required under NIT and not only accused no.1 and 2 were mislead but Board of Assessors were also mislead and M/s Raja Aederi Consultants Pvt. Ltd. succeeded in getting the tender.

152. The judgments cited by Ld. Counsel for accused 3 to 5 are not applicable under the facts and circumstances of the present case.

153. Ld. Counsel for accused no. 3 to 5 after referring testimonies of DW-3, Mr. B.L. Meena and PW-14, DSP Surender Malik, contended that NDMC did not suffer any loss, hence, offence of cheating is not made out. Ld. Counsel for accused relied upon the following judgments :-

154. In the judgment ***Subrato Shaha Vs. State of Bihar & Anr.***, Hon'ble Patna High Court observed that when there is no

allegation that any wrongful loss was caused to the Bokaro Steel Plant or the petitioner had received any benefit – Petitioner appearing not to have played any role either in the forging of the documents nor used any forged document knowing that to be false, offence of cheating is not made out.

155. In the judgment **Ramji Lakhamsi Budhadeve Vs. Harshadrai Nanda** Mr. Lal Bhuta, Hon'ble Bombay High Court observed that offence of cheating is not committed unless the false representation is likely to cause damage or harm to the victim.

156. In the judgment **Abdul Fazal Siddiqui Vs. Fatehchand Hirawat and Another**, Hon'ble Supreme Court observed that mere representation, which is neither claimed or alleged to be dishonest or fraudulent would not attract the charge of cheating only because the complainant parts with his money on the basis thereof.

157. Hon'ble Karnataka High Court in the matter **Bhujang Fakirappa Karade Vs. State of Karnataka**, observed that a direct or remote damage or harm must in every case be proved in relation to the person so deceived. Hon'ble Karnataka High Court observed that, *"It is manifest for the offence of cheating there has to be deception by a person who fraudulently or dishonestly induces the other person so deceived to deliver any property to any person or to consent that any*

*person shall retain any property or intentionally induces the person so deceived to do or omit to do anything which he would not do or omit if he were not so deceived but the other necessary ingredient of that offence is, that the aforesaid act or omission causes or is likely to cause damage or harm to the person so deceived, in body, mind, reputation or property.”*

158. In the judgment **Ram Jas Vs. State of U.P.**, Hon'ble Supreme Court observed that, “The ingredients required to constitute the offence of cheating are -

*(I) there should be fraudulent or dishonest inducement of a person by deceiving him ;*

*(ii) (a) the person so deceived should be induced to deliver any property to any person, or to consent that any person shall retain any property; or*

*(b) the person so deceived should be intentionally induced to do or omit to do anything which he would not do or omit if he were not so deceived ; and*

*(iii) In cases covered by (ii)(b), the act or omission should be one which causes or is likely to cause damage or harm to the person induced in body, mind, reputation or property.*

159. Similar observations were made by Hon'ble Calcutta High Court in ***Harendra Nath Das Vs. Jyotish Chandra Datta*** that damage or harm caused or likely to be caused must be the necessary consequence of the act done by reason of the deceit practised, or must be necessarily likely to follow therefrom, and the law does not take into account remote possibilities that may flow from the act.

160. The contention of Ld. Counsel for accused no. 3 to 5 is totally misplaced.

161. The DW-3, Mr. B.L. Meena is Assistant Public Information Officer and he has produced the record regarding the reply sent by the NDMC to accused V.K. Gulati and as per the said reply, tender was given to the lowest bidder and hence the tender was awarded to M/s Raja Aederi Consultants Pvt. Ltd. IO also did not state that any loss was caused to the NDMC. The prosecution failed to show any pecuniary loss caused to the NDMC. However, the material on record shows that accused no.5 was not eligible to apply for bid and because of misrepresentation and concealment of facts by the accused no. 3 to 5, the tender was granted in favour of accused no.5, M/s Raja Aederi Consultants Pvt. Ltd.. The NDMC was deprived of services of competent and eligible architectural consultancy because of the mis-representation and

concealment of facts by the accused no.3, 4 and 5, therefore, it cannot be said that no loss was caused to the N.D.M.C. It is not in dispute that accused no.5 succeeded in getting tender and therefore gain was caused to the accused no.5, M/s Raja Aederi Consultants Pvt. Ltd..

162. Here it is relevant to refer the judgment passed by Hon'ble Supreme Court in *Dr. Vimla Vs. Delhi Administration, 1963 (2) Cri.L.J. 434 SC*. Hon'ble Supreme Court clearly observed that if there is gain then there is corresponding loss and the prosecution need not establish loss, if it had succeeded in proving that the accused had gained benefit. Here it is seen that accused no. 3 to 5 bagged the contract despite being not eligible by misrepresenting and concealment of relevant facts.

163. From the facts stated above, the only conclusion that can be drawn is that accused no.5, M/s Raja Aederi Consultants Pvt. Ltd. and its Directors : accused no.3, Raja Aederi and accused no.4, Uday Shankar Bhat have put NDMC to deception and acted dishonestly and mis-represented in Appendix A and Appendix B that accused no.5, had experience of architectural consultancy in respect of NSCI stadium and was also doing ongoing architectural consultancy project in NSCL, Worli, Mumbai, while in fact it had not worked in such Stadium. Further, accused no. 3 to 5 have concealed the fact that

accused no.5, had no architectural consultancy experience of renovation/upgradation of any sports stadium. By such act accused no. 3 to 5 succeeded in getting contract although not eligible for it.

164. One of the contention of Ld. Counsel for accused no. 3 to 5 is that Raja Aederi and Uday Bhat have not been involved in day today affairs of the company, hence, cannot be made liable even if it is assumed any wrong had been committed by the accused company M/s Raja Aederi Consultants Pvt. Ltd.. Ld. Counsel also submitted that there is no conspiracy between accused no. 3 to 5.

165. Ld. Counsel for accused no. 3 to 5 referred judgment *Sunil Bharti Mittal Vs. CBI*, wherein, Hon'ble Supreme Court observed that when company is the accused, it s Directors can be roped in only if (a) there is sufficient incriminating evidence against them coupled with criminal intent or (b) the statutory regime attracts the doctrine of vicarious liability.

166. Here it is relevant to refer **Section 120B IPC which reads as under :-**

120B Punishment of criminal conspiracy. - (1)  
*Whoever is a party to a criminal conspiracy to commit an offence punishable with death, [imprisonment for life] or rigorous imprisonment for a term of two years or upwards,*

*shall, where no express provision is made in this Code for the punishment of such a conspiracy, be punished in the same manner as if he had abetted such offence.*

*(2) Whoever is a party to a criminal conspiracy other than a criminal conspiracy to commit an offence punishable as aforesaid shall be punished with imprisonment of either description for a term not exceeding six months, or with fine or with both.]*

167. To constitute a conspiracy, meeting of minds of two or more persons for doing an illegal act or an act by illegal means is the first and primary condition and it is not necessary that all the conspirators must know each and every detail of the conspiracy. Neither is it necessary that every one of the conspirators takes active part in the commission of each and every conspiratorial acts. The agreement amongst the conspirators can be inferred by necessary implication. In most of the cases, the conspiracies are proved by the circumstantial evidence, as the conspiracy is seldom an open affair. The existence of conspiracy and its objects are usually deduced from the circumstances of the case and the conduct of the accused involved in the conspiracy. Criminal conspiracy is an independent offence in the Penal code. The unlawful agreement is sine qua non for constituting offence under the Penal Code and not an accomplishment. Conspiracy consists of the scheme or adjustment

between two or more persons which may be express or implied or partly express or partly implied. Even Section 10 of the Evidence Act introduces the doctrine of agency and if the conditions laid down therein are satisfied, the act done by one is admissible against the co-conspirators.

168. The contention of Ld. Counsel for accused nos. 3 to 5 is contrary to the material on record. It is noted that accused no.4, Uday Bhat has been authorized by accused no.5 company to take all steps needed for the said Project and the Resolution, Ex. PW-8/C, clearly shows the aforesaid facts. Further, all the bid documents have been signed by accused no.4, Uday Shankar Bhat and the material on record shows that he has actively participated in day today affairs of the company during the aforesaid project. The bid documents particularly work programme and time schedule for key personnel, (part of bid documents, Ex. PW-5/DX and PW-5/X), shows that Uday Shanker Bhat's services were made available during entire project.

169. So far as, accused no. 3, Raja Aederi is concerned, it is noted that letter dated 18.05.2006, PW-8/B, was written by accused no.4 and Mr. Kamal Hadker of M/s Sterling Engineering Consultancy Services Pvt. Ltd., mentioning therein that these companies are members of Group and would be liable to the NDMC if contract is awarded to them. Further on behalf of the company, accused no.5

Raja Aederi, Chairman, has authorized Mr. Uday Shankar Bhat, vide Resolution, Ex. PW-8/C, clearly stating therein that accused no.4 will be taking necessary steps regarding aforesaid project. The Memorandum, Ex. PW-4/G, whereby both the companies M/s Raja Aederi Consultants Pvt. Ltd. and M/s Sterling Engineering Consultancy Services Pvt. Ltd. agreed to work, was also signed by accused no.3, Raja Aederi. The Curriculum Vitae, in form C-2 (part of bid documents, Ex. PW-5/DX-4 and Ex. PW-5/X), also shows the name of accused no.3 as key personnel who would be involved in the said project. In Form-D of the bid documents (Ex. PW-5/X and Ex. PW-DX-4), name of the key persons who would be available for the project mentions the name of Raja Aederi which only shows that Raja Aederi was involved in the said project. It is stated that the letter dated 18.05.2006, PW-8/B was signed by accused no.3 and Mr. Kamal Hadker, was submitted as a part of bid documents. The MOU, Ex. PW-4/G is also filed with the bid documents. It only shows that accused no.3 was aware of and involved in the entire project since beginning.

170. The defence witness, DW-2, testified that Raja Aederi was not involved in the said project and did not visit Delhi at any point of time. The aforesaid statement of the witnesses is falsified by the documents filed with the bid documents and statement of accused no.3, under Section 313 Cr.PC, that he provided his services and

experience pursuant to grant of tender.

171. The judgment referred by Ld. Counsel for accused no. 3 to 5 is not applicable under the facts and circumstances of present case in view of clear cut established fact that accused no.3, Raja Aederi as well as accused no.4, Uday Shanker Bhat, both Directors of accused no.5, M/s Raja Aederi Consultants Pvt. Ltd., had been involved in the working of the project from beginning. From the facts as discussed above, it has emerged that accused no. 3 to 5 has conspired and dishonestly obtained the contracts by misrepresentation and concealment of facts after putting official of NDMC under deception. Conspiracy on the part of aforesaid accused is apparent from the role of aforesaid accused no. 3 to 5.

### **Conclusion**

172. Pondering over the ongoing discussion, I am of the considered opinion that :-

i. Prosecution has succeeded to bring home the guilt of accused no.3, Raja Aederi, accused no.4, Uday Shankar Bhat and accused no.5, M/s Raja Aederi Consultants Pvt. Ltd., Mumbai, U/S 420 IPC and 120B r/w Section 420 IPC beyond shadow of all reasonable doubts. Accordingly, I hereby hold them guilty thereunder.

ii. The prosecution has failed to bring home guilt of accused no.1, R.S. Thakur and accused no.2, V.K. Gulati, beyond the shadow of all reasonable doubt, accordingly, I hereby acquit them from all the charges.

***Announced in the open Court  
on this 8<sup>th</sup> day of May, 2017***

***(Arvind Kumar)  
Special Judge-CBI-01  
PHC/New Delhi***