

HIGH COURT OF TRIPURA
AGARTALA
W.P.(C) 944/2021

M/S Tripura Tubes Private Limited, A company registered under the Companies Act, having its registered office at Madhya Banamalipur, East Thana Road, Agartala, P.O. Agartala, P.S. East Agartala, District- West Tripura, represented by its authorized signatory, Shri Dipanjan Saha

---- **Petitioner**

Versus

1. The State of Tripura, Public Works Department, Civil Secretariat, New Capital Complex, Agartala, District- West Tripura, PIN- 799010, represented by its Secretary

2. The Chief Engineer, Public Works Department (DWS), Government of Tripura, Pandit Nehru Complex, Agartala, P.O. Kunjaban, District- West Tripura

3. The Executive Engineer, Agartala Division No. II, DWS Division, Banamalipur, near Bhutoria Godown, Agartala, P.O. Agartala, District- West Tripura

----**Respondents**

For Petitioner(s)	:	Mr. SM Chakraborty, Sr. Advocate Ms. P. Chakraborty, Advocate
For Respondent(s)	:	Mr. SS Dey, Advocate General Ms. A. Chakraborty, Advocate
Date of hearing and delivery of Judgment & Order	:	08.02.2023
Whether fit for reporting	:	Yes / No

HON'BLE THE CHIEF JUSTICE (ACTING)
HON'BLE MR. JUSTICE ARINDAM LODH
Judgment & Order (Oral)

08/02/2023

(T. Amarnath Goud, ACJ)

Heard Mr. SM Chakraborty, learned senior counsel assisted by Ms. P. Chakraborty, learned counsel appearing for the petitioner as well as Mr. SS Dey, learned Advocate General assisted by Ms. A. Chakraborty, learned counsel appearing on behalf of the respondents.

2. By means of filing this writ petition, the petitioner has prayed for the following reliefs:

- a) admit this petition;
- b) Issue Rule NISI upon the respondents to show cause as to why a writ of Certiorari shall not be issued calling upon the respondents to place the entire record of the tenders mentioned above before this Hon'ble Court for its kind examination;
- bi) as to why a Writ of Certiorari shall not be issued cancelling/quashing the action of the respondents contained in Annexure-21B, Annexure-22A to Annexure- 22G, Annexure-23B and Annexure 24 to the petition;
- c) as to why a writ of Mandamus shall not be issued commanding upon the respondents to treat the 10(ten) number of tenders submitted by the petitioners against DNIT Nos. DNleT No. 32/CE/PWD(DWS)2021-22, DNleT No. 33/CE/PWD(DWS)2021-22, DNleT No. 34/CE/PWD(DWS)2021-22, DNleT No. 26/SE/DWSC/AGT/2021-22, DNleT No. 27/SE/DWSC/AGT/2021-22, DNleT No. 28/SE/DWSC/AGT/2021-22, DNleT No. 30/SE/DWSC/AGT/2021-22, DNleT No. 31/SE/DWSC/AGT/2021-22, DNleT No. 32/SE/DWSC/ AGT/ 2021-22, DNleT No. 35/SE/DWSC/AGT/2021-22, as formal and valid on the strength of the Article of Association issued under the Companies Act, as stated;
- d) issue writ in the light of the prayers made above and make the rule absolute;
- e) in the interim restrain the respondents from finalizing the tenders the numbers of which are given above till disposal of the writ petition; any other appropriate order or direction as this Hon'ble Court deems fit and proper may kindly be passed;

3. Briefly stated, the petitioner has submitted 16 number of DNleT floated by the respondent no. 3 out of which 6 number of tenders were found second lowest in rate for which the same were rejected by respondent no.3, but remaining 10 tenders were also not accepted since they were at lowest rate. It is the case of the petitioner that those 10 tenders were rejected on the ground that the petitioner did not submit any proof of enlistment as per required of the NIT. It is further case of the petitioner that the respondents are proceeding at a high speed to finalise the tenders for issuing work orders with respect to the said 10 number of tenders in which the petitioner was the lowest tenderers. The petitioner submitted representation but of no result.

Being aggrieved by the action of the respondents, the petitioner has filed this writ petition.

4. During arguments, Mr. Chakraborty, learned senior counsel appearing for the petitioner has argued that though the tenders submitted by the petitioner were of the lowest rate but, the same were rejected by the respondents arbitrarily on the eligibility criteria. Learned senior counsel has also urged for re-examination of the tenders by the department and thereafter to consider the same.

5. Learned Advocate General has fairly submitted that the disqualification of the petitioner has been erased and subsequently the petitioner has got his registration and the petitioner is at present doing same type of work in various departments. Learned Advocate General has also submitted that except 6 (six) number of tenders, the department shall reconsider only 10 (ten) number of tenders which were being rejected earlier.

6. Considered the submission of learned counsel appearing for the parties.

7. It is submitted by learned counsel appearing for the petitioner that the petitioner is now facing no disqualification in view of any changed circumstances. Accordingly, the petitioner is entitled for reconsideration of his tenders.

8. In view of the said submission of learned counsel appearing for the petitioner which is not denied by learned Advocate General appearing for the

respondents-State, this court directs the respondents to consider the case of the petitioner's tenders in accordance with law as expeditiously as possible preferably within a period of 2 weeks from the date of receipt of the copy of the order. However, it is made clear that earlier disqualification of the petitioner shall not be referred to while considering the present reference. It is further clarified that this order shall be confined only in respect of 10 (ten) number of tenders which are the subject matter of this writ petition, as explained in para 9 of the writ petition, which reads as under:

"9. That the said information given by the respondent no. 3 being highly surprising to the Managing Director of the petitioner, he met with the respondent no. 2 for redress against such uncalled for decision when the said respondent no. 2 also confirmed him that his 10(ten) number of tenders against DNIT Nos. DNleT No. 32/CE/PWD(DWS)2021-22, DNleT No. 33/ CE/PWD(DWS)2021-22, DNleT No. 34/CE/PWD(DWS)2021-22, DNleT No. 26/SE/DWSC/AGT/2021-22, DNleT No. 27/SE/DWSC/AGT/2021-22, DNleT No. 28/SE/DWSC/AGT/2021-22, DNleT No. 30/SE/DWSC/AGT/ 2021-22, DNleT No. 31/SE/DWSC/AGT/2021-22, DNleT No. 32/SE/DWSC/ AGT/ 2021-22, DNleT No. 35/SE/DWSC/AGT/2021-22 have been rejected on the ground so divulged by the respondent no. 3 to him."

It is further made clear that with regard to the remaining 6 (six) number of tenders, the respondent-State is at liberty to proceed in accordance with the procedure.

9. Accordingly, the writ petition stands disposed of in terms of the above observations and directions. Interim application(s), if any, also stand disposed of.

Pending application(s), if any, also stands disposed.

JUDGE

CHIEF JUSTICE (ACTING)