

**HIGH COURT OF TRIPURA
AGARTALA**

WP(C) No.656/2025

MVS Engineering Private Limited, represented by its Director E-24, East of Kailash, New Delhi-110065 Email: b.das@ mvsengg.com
..... Petitioner(s).

V E R S U S

1. The State of Tripura, represented by its Secretary, Animal Resource Development Department, Government of Tripura Prani Sampad Bikash Bhawan, Pandit Nehru Complex, Gurkhabusti, P.O.-Kunjaban, PIN-799006, West Tripura Email: ardd.tripura@gmail.com, tr032@ifs.nic.in
2. Tripura Livestock Development Agency represented by its Chief Executive Officer, Astabal, Agartala, Tripura-799001, Email: ardd.tripura@gmail.com, tr056@ifs.nic.in, tripuralivestockd@yahoo.com
3. Stirling Cryogenics India Private Limited, 139/A-2, First Floor, Antriksh Bhawan, 22, Kasturba Gandhi Marg, New Delhi-110001 Also at:E-43, Ground Floor, Sector-63, Noida, U.P.-201309 a.bhutani@stirlingcryogenics.co.in
.....Respondent(s).

For Petitioner(s)	: Mr. Bibhal Nandi Majumder, Sr. Advocate, Ms. Sumi Datta, Advocate, Ms. Sampa Das Deb, Advocate, Mr. Samrat Sarkar, Advocate.
For Respondent(s)	: Mr. Kohinoor N Bhattacharyya, G.A., Mr. Dipankar Sarma, Addl. G.A., Mr. Amrit Lal Saha, Advocate.

**HON'BLE THE CHIEF JUSTICE MR. M.S. RAMACHANDRA RAO
HON'BLE MR. JUSTICE BISWAJIT PALIT**

Date of hearing & judgment : **16.01.2026.**

Whether fit for reporting : **YES.**

JUDGMENT & ORDER (ORAL)

(M.S. Ramachandra Rao, C.J.)

Heard both sides.

2. In this Writ Petition, the petitioner has assailed the action of the respondent No.2, Tripura Livestock Development Agency, in rejecting the bid of the petitioner and accepting the bid of the respondent No.3 with regard to an e-Tender for procurement and installation of 3 nos. of medium Liquid Nitrogen

Plant along with 125 kVA voltage Stabilizer for West Tripura, Gomati and Unakoti Districts to strengthen the AI Network in Tripura State during the year 2025-26, which decision was taken on 29.10.2025.

3. The principal contention of the petitioner is that as per Clause-43 of the tender (Annexure-11), the financial turnover of a bidder should be more than Rs.7 (seven) crore per annum in the preceding three years, and though the respondent No.3 had only a turnover of Rs.863.18 lakhs in 2022-23, Rs.1076.00 lakhs in 2023-24 and Rs.511.06 lakhs in 2024-25, the respondent No.3 had been awarded the said work arbitrarily in violation of Article 14 of the Constitution of India.

4. Counsel for the petitioner contends that since the respondent No.3 did not have a turnover of more than Rs.7(seven) crore for 2024-25 financial year, it was not open to the respondent No.2 to treat the respondent No.3 as eligible and consider to award the contract to the respondent No.3 on 29.10.2025. He also contended that the respondent No.2 was not right in disqualifying or rejecting the bid of the petitioner.

5. On 20.11.2025, when this Writ Petition was listed before us, we passed the following order:

"Issue notice to respondents No.2 & 3.

Prime facie the selection of third respondent as the agency for procurement and installation of three numbers of medium liquid nitrogen plants along with 125 KVA voltage stabilizer for West Tripura, Gomati and Unakoti Districts to strengthen AI network in Tripura State during 2025-26 with the subject Tender on 29.10.2025 vide Annexure-11 appears to be arbitrary because, as per the said tender requirement (Clause 43), the financial turnover of a bidder should be more than Rupees Seven Crore per annum in the preceding three

years, but as per the summary note on technical bid filed at Annexure-12 along with the Technical Bid Evaluation Statement, the third respondent does not fulfil this requirement.

Therefore, the second respondent is restrained from executing any agreement, or awarding the subject Contract to the third respondent until further orders.

List on **11.12.2025**."

6. Thereafter, the respondents No.2 and 3 have filed counter affidavits.

7. It is the stand of the respondent No.2 in the counter affidavit that the petitioner has been rightly disqualified in the technical evaluation of his bid by the Technical Evaluation Committee, but respondent No.3 had fulfilled the turnover requirement of Rs.7(seven) crore for the last three financial years as per total turnover certificate specified for the tender, which was also certified by an independent Chartered Accountant.

8. Both the counsel for respondents No.2 and 3 have drawn the attention of this Court to Annexure-7, format of total turnover certificate, which indicated that apart from the financial turnovers for the years 2022-23, 2023-24 and 2024-25, there is a column providing for "average" of three financial years. According to the said respondents, the "average" turnover for the above financial years relating to the respondent No.3 is Rs.816.75 crores and, therefore, the respondent No.3 was rightly held eligible, and that because of the interim order passed by this Court on 20.11.2025, no agreement or letter awarding the contract to the respondent No.3 was done.

9. Neither of the respondents' counsel dispute the fact that Clause-43 in the tender did not mention about "average" turnover of three years, and it

mentioned only that financial turnover of a bidder should be more than Rs.7(seven) crores per annum in the preceding three years. In other words, the tender requirement is that for "each" of the three preceding years, the financial turnover of a bidder should be more than Rs.7(seven) crores per annum. Therefore, there was no question of taking the "average" turnover of all the three years and making the respondent No.3 qualify in the technical evaluation done by the respondent No.2's Technical Evaluation Committee.

10. The Supreme Court of India in the case of **Ramana Dayaram Shetty v. International Airport Authority of India & others**¹ has held that an Executive Authority must be rigorously held to the standards by which it professes its actions to be judged, and it must scrupulously observe those standards on pain of invalidation of an act in violation of them. It held:

"10. Now, there can be no doubt that what paragraph (1) of the notice prescribed was a condition of eligibility which was required to be satisfied by every person submitting a tender. The condition of eligibility was that the person submitting a tender must be conducting or running a registered IInd Class hotel or restaurant and he must have at least 5 years' experience as such and if he did not satisfy this condition of eligibility, his tender would not be eligible for consideration. This was the standard or norm of eligibility laid down by respondent 1 and since the respondents 4 did not satisfy this standard or norm, it was not competent to Respondent 1 to entertain the tender of Respondents 4. It is a well-settled rule of administrative law that an executive authority must be rigorously held to the standards by which it professes its actions to be judged and it must scrupulously observe those standards on pain of invalidation of an act in violation of them. This rule was

¹ (1979) 3 SCC 489

enunciated by Mr Justice Frankfurter in **Viteralli v. Saton** [359 US 535 : Law Ed (Second series) 1012] where the learned Judge said:

“An executive agency must be rigorously held to the standards by which it professes its action to be judged Accordingly, if dismissal from employment is based on a defined procedure, even though generous beyond the requirements that bind such agency, that procedure must be scrupulously observed This judicially evolved rule of administrative law is now firmly established and, if I may add, rightly so. He that takes the procedural sword shall perish with the sword.”

This Court accepted the rule as valid and applicable in India in **A.S. Ahluwalia v. Punjab** [(1975) 3 SCC 503, 504 : 1975 SCC (L&S) 27 : (1975) 3 SCR 82] and in subsequent decision given in **Sukhdev v. Bhagatram** [(1975) 1 SCC 421, 462 : 1975 SCC (L&S) 101 : (1975) 3 SCR 619] , Mathew, J., quoted the above-referred observations of Mr Justice Frankfurter with approval. It may be noted that this rule, though supportable also as an emanation from Article 14, does not rest merely on that article. It has an independent existence apart from Article 14. It is a rule of administrative law which has been judicially evolved as a check against exercise of arbitrary power by the executive authority. If we turn to the judgment of Mr Justice Frankfurter and examine it, we find that he has not sought to draw support for the rule from the equality clause of the United States Constitution, but evolved it purely as a rule of administrative law. Even in England, the recent trend in administrative law is in that direction as is evident from what is stated at pages 540-41 in Prof Wade's “Administrative Law”, 4th Edn. There is no reason why we should hesitate to adopt this rule as a part of our continually expanding administrative law. Today with tremendous expansion of welfare and social service functions, increasing control of material and economic resources and large scale assumption of industrial and

commercial activities by the State, the power of the executive Government to affect the lives of the people is steadily growing. The attainment of socio-economic justice being a conscious end of State policy, there is a vast and inevitable increase in the frequency with which ordinary citizens come into relationship of direct encounter with State power-holders. This renders it necessary to structure and restrict the power of the executive Government so as to prevent its arbitrary application or exercise. Whatever be the concept of the Rule of Law, whether it be the meaning given by Dicey in his "The Law of the Constitution" or the definition given by Hayek in his "Road to Serfdom" and "Constitution of Liberty" or the exposition set forth by Harry Jones in his "The Rule of Law and the Welfare State", there is as pointed out by Mathew, J., in his article on "The Welfare State, Rule of Law and Natural Justice" in "Democracy, Equality and Freedom" [Upendra Baxi, Ed. : Eastern Book Co., Lucknow (1978) p. 28] "substantial agreement in juristic thought that the great purpose of the rule of law notion is the protection of the individual against arbitrary exercise of power, wherever it is found". It is indeed unthinkable that in a democracy governed by the rule of law the executive Government or any of its officers should possess arbitrary power over the interests of the individual. Every action of the executive Government must be informed with reason and should be free from arbitrariness. That is the very essence of the rule of law and its bare minimal requirement. And to the application of this principle it makes no difference whether the exercise of the power involves affectation of some right or denial of some privilege."

11. The Supreme Court thus emphasized the need to structure and restrict the power of the Executive Government so as to prevent its arbitrary application or exercise and held that every action of the Executive Government must be informed with reason and should be free from arbitrariness.

12. There is no explanation offered by the respondents to support the deviation from the tender condition, except to say that the format of the annexure where the financial turnover is to be furnished by a bidder also indicated the "average" turnover and, therefore, it is permissible for the respondent No.2 to take that into account while deciding that the respondent No.3 was eligible.

13. In our opinion, the format will not override the condition in the tender which mandated that the financial turnover of the bidder should be more than Rs.7(seven) crore per annum in the preceding three years, i.e. in "each" of the preceding three years. So it was not permissible for the respondent No.2's Technical Evaluation Committee to take the average turnover of the three years and then make the respondent No.3 eligible in the technical evaluation arbitrarily.

14. In this view of the matter, the Writ Petition is allowed; the decision of 29.10.2025 taken by the respondent No.2 making the respondent No.3 eligible as per the Technical Evaluation Committee's decision for award of the contract is, therefore, set aside; and the respondent No.2 is directed to issue a fresh tender for procurement and installation of the 3 nos. of medium Liquid Nitrogen Plant along with 125 kVA voltage Stabilizer for West Tripura, Gomati and Unakoti Districts. No costs.

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

(BISWAJIT PALIT, J)

(M.S. RAMACHANDRA RAO, CJ)

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