

THE HIGH COURT OF TRIPURA
_A_G_A_R_T_A_L_A_

WP(C) NO.186 of 2015

Tripur Polymer Private Limited.,
having its registered office at East Thana Road,
Madhya Banamalipur, P.O. Agartala, West Tripura - 799 001,
Represented by its Managing Director Sri Haridas Saha.

..... *Petitioner.*

- Vs -

- 1. The State of Tripura,**
Through the Secretary to the
Government of Tripura,
Public Works Department,
Civil Secretariat, New Secretariat Complex,
Agartala - 799010, Tripura.
- 2. The Chief Engineer,**
Public Works Department (WR),
P.O - Kunjaban, Agartala, West Tripura.
- 3. The Director of Industries and Commerce,**
Government of Tripura,
Shilpa Udyog Bhavan, Khejur Bagan,
P.O. Agartala Secretariat, West Tripura.
- 4. The Executive Engineer,**
Resource Division, Public Works Department,
Panchmukh, P.O - A.D. Nagar,
Agartala, West Tripura.

..... *Respondents.*

_B_E_F_O_R_E_
HON'BLE THE CHIEF JUSTICE MR. DEEPAK GUPTA
HON'BLE MR. JUSTICE S C DAS

For the petitioner : Mr. S M Chakraborty, Sr. Advocate,
Ms. B Chakraborty, Advocate.

For the respondents : Mr. T D Majumder, Addl. G. A.

Date of hearing and
delivery of judgment : **25.8.2015.**

Whether fit for reporting :

Yes	No
	✓

JUDGMENT & ORDER (ORAL)

(Deepak Gupta, CJ)

The main grievance of the petitioner is that the State by putting a condition that the contractors should have some bid capacity have virtually eliminated the petitioners and similarly situated persons from taking part in the bidding process.

2. The petitioner claims that though he may not have technically qualified the bid, his financial bid should be opened and he should be deemed to be financially qualified.

3. As far as this direction is concerned, this Court has already dealt with this question in ***WP(C) No.41 of 2014, Tripur Polymer Pvt. Ltd. Vs. The State of Tripura and others*** wherein this Court held as follows :

“8. There can be no quarrel with the proposition that the State is entitled under Section 11 of the Act and to frame a scheme to give advantage to the small scale or micro industries. Having held so, this is a policy decision which the State must take. The Court has no jurisdiction whatsoever to direct the State to take an action one way or the other and the provisions only enables the authority to take action. If Section 11 was not there, any action of the State giving benefit to small scale industries etc. may have been hit by Article 14 of the Constitution. The purpose of putting in Section 11 is to give statutory right to the State to provide benefit to such sort of industries. However, what is the benefit to be given, in what manner the benefit is to be given, whether any benefit is to be given or not, the extent of benefit to be given are all matters

which fall solely within the domain of the State and the Court cannot direct the State to give such benefit.

9. Having held so, we may note that in the communications of the officials/State itself it is apparent that the various officials have felt a strong need for a clear-cut policy in this regard. Therefore, if the petitioner or the association of the small scale industries approaches the State Government for framing a policy in this regard the State may frame such a policy as it deems fit and proper.”

Now the petitioner alleges that after the decision of the earlier writ petition certain documents have come to his knowledge and, therefore, the State be directed to comply with those documents.

4. The judgment of this Court in WP(C) No.41 of 2014 has attained finality. That judgment cannot be set aside by filing a second writ petition. Either the petitioner should have filed a review petition claiming that the judgment in the earlier writ petition requires to be reviewed because of certain documents which were not brought to the notice of the Court or the petitioner should have challenged the earlier judgment in appeal. The petitioner cannot claim that certain documents which were in existence prior to the date when the earlier judgment was passed should now be taken into consideration and this Court in the present writ petition should take a totally different view than that taken in the earlier judgment. Therefore, we do not look into those documents.

5. Having held so, we again leave it to the petitioner to decide whether he wants to approach the Government in terms of para 9 of the earlier judgment and while doing so he can make reference to the documents and in case the decision of the Government is not in favour of the petitioner then the petitioner can approach the Court on the basis of a new cause of action.

With this observation the petition is disposed of.

JUDGE

CHIEF JUSTICE

Sukhendu