

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

WPO 436 OF 2020
MODEL CONSTRUCTION COMPANY & ORS.
VS.
THE STATE OF WEST BENGAL & ORS.

BEFORE :
THE HON'BLE JUSTICE
SABYASACHI BHATTACHARYYA
DATED : DECEMBER 21, 2020.
(VIA VIRTUAL MODE)

Mr. Anjan Bhattacharya, Adv.
Ms. Anita Shaw, Adv.
...for petitioners
Mr. Amitesh Banerjee, Adv.
...for respondents

The Court :- The petitioners have moved the present writ petition on the grievance that, despite having a vessel (launch), which is duly certified by the registering authorities and the Inland Water Transport Authorities, the petitioners' bid for a tender floated by the Baruipur Police was rejected. The reason for disqualification was given to be that the space management of the said launch was not fulfilling the requirement of the tender-issuing authority. Learned Counsel, by placing reliance on the registration certificate and connected documents, indicates that the specification of length (55 ft. or more) was duly fulfilled by the petitioners' launch; as such, the petitioners ought not to have been shut out from the bid.

Learned Senior Counsel appearing for the respondent authorities submits, on the strength of clause 5(f) of the tender document, that the requirement for the purpose of the tender was not restricted to the length of the launch alone but that the vessel had to be cabinised as per order of West Bengal Police Directorate. On instruction, learned Senior Counsel further submits that a physical inspection of the launch showed that the upper deck of the same was not properly fitted, being bereft of privacy, which is an essential component of the purpose for which the tender was floated. Moreover, the cabinisation of the vessel was inadequate.

If a duly-floated tender process is not tainted by any patent arbitrariness or mala fides on the part of the tenderer, no interference by the writ court is called for.

It is seen from the technical bid summary that the petitioners' bid was disqualified only after physical inspection and on the specific reasoning that the space management of the said launch did not fulfil the requirement of the tenderer. In a tender process, minimum leeway has to be given to the tenderer to ascertain whether the bid would fulfil the purpose of the tender. In the present case, the reason furnished for disqualification is plausible and well within the authority of the respondents. As such, no interference is called for in the writ jurisdiction of this court.

Accordingly, WPO 436 of 2020 is dismissed without any order as to costs.

There will be no order as to costs.

Urgent certified photocopy of this order, if applied for, be made available to the parties subject to compliance of all requisite formalities.

(SABYASACHI BHATTACHARYYA, J.)

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