

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

PRESENT:

THE HON'BLE JUSTICE ARINDAM MUKHEREJEE.

W.P.A 4598 of 2021

SONARPUR PROGOTIR PATHE & ANR.

VS.

THE STATE OF WEST BENGAL & ORS.

For the petitioners	:	Mr. Rajmohan Chatteraj, Mr. Sankar Prasad Dalapati, Mr. Subrata Sarkar, Mr. Saurav Mondal, Mr. Abhijit Sarkar Advocates
For the State	:	Mr. Samrat Sen, Sr. Adv. Mr. Sutapa Sanyal Advocates
For the respondent No.5 and 6	:	Mr. Siva Prasad Ghosh Advocate
Heard on		25.03.2021.
Judgment on	:	26th March, 2021.

Arindam Mukherjee, J.:

- 1) The petitioner no.1, a registered society as claimed and the petitioner no.2 its President have, inter alia, sought for cancellation of a letter dated 2nd February, 2021 issued by the Chief Medical Officer Health, Murshidabad (respondent no.3) to respondent no.5 (Anjana Ghosh Memorial Social Welfare

Trust) informing the said respondent to have been selected as the lowest bidder on the ground that the bid of the respondent no.5 was mandatorily required to be rejected.

Facts of the Case :-

1. The Chief Medical Officer of Health, Berhampore, Murshidabad, Health and Family Welfare Department, Government of West Bengal had published a notice inviting e-Tender inviting offers from eligible bidders for establishment of Waiting Hut for Pregnant Women at Teghari BPHC, Mahesail BPHC, Saktipur BPHC & Beniagram PHC (Farakka) in Murshidabad district of the State for 3 years from the date of award of the contract (hereinafter referred to as said NIT).
2. The bids for the said NIT were required to be submitted in three parts 'Bid – A', 'Bid – B' and 'Bid – C'. 'Bid – A' and 'Bid – B' constitute the technical bid and 'Bid – C' is the Bill of Quality (in short BOQ) being the Financial Bid.
3. Under the evaluation process, the technical bid being 'Bid-A' and 'Bid-B' were to be evaluated first. Those bidders who qualified in respect of evaluation of essential and other requirements of 'Bid – A' and 'Bid-B' and their supporting documents being in conformity were entitled to have their Financial Bid ('Bid-C') opened and evaluated.

4. The detailed list of documents to be attached to the Bid was mentioned in the check list at the end of the bid documents of the NIT.
5. The NIT also provided certain guidelines for the evaluation process which are as follows:-
 - “a) Any wrong or **misleading information** provided by the Tenderer during submission of bids may lead to summary cancellation of bid, **blacklisting in DH&FWS for at least 5 years and forfeiture of EMD.**
 - b) Each scanned documents should have an index page indicating the name of the documents enclosed with page no.
 - c) The EMD of unsuccessful Tenderers shall be returned as promptly as possible upon the successful Tenderer’s furnishing of the Performance Security pursuant to Instructions to Tenderers.
 - d) In case extension required, Bank Guarantees are to be renewed prior to 30 days of their expiry.”.
6. The NIT also provided for following under eligibility criteria:-
 - “3. The Selection committee can call for any further clarifications or information or documents at any point of time. The applicant may also be called for explaining or clarifying issues, if there by any.
 4. The Selection committee, at its own discretion, will evaluate the performance of Self Help Groups to be qualified.”.

7. The selection process as mentioned under the NIT is as follows:-

“c. Selection Process of Applicants

1. Selection process would involve short-listing of applicants based on eligibility criteria. It may be mentioned here that an Organization may be considered for operation and management of more than one Waiting Hut, if selected. However, the Organizations need to make separate applications for each of the Waiting Huts.
2. After short-listing of applicants as mentioned above, final selection of the Organization from the short-listed applicants would be made on the lowest offer made by an applicant for financial grant in the application for Operation and Management of the Waiting Hut through PPP **on Monthly basis**.
3. The Selection Committee can call for any further clarifications or information or documents at any point of time. The applicant may also be called for explaining or clarifying issues, if there be any.
4. The Selection Committee, at its own discretion, will evaluate the performance of Self Help Groups to be qualified.
5. Decision of the Selection Committee regarding selection of the Organization for operation and maintenance of the three Waiting Huts will be final.
6. Tender Inviting Authority has Right to Accept Any Bid and to Reject Any or All Bids, authority reserves the right to accept or reject any bid and to annul the bidding process and reject all bids at any time prior to

contract award, without thereby incurring any liability to Tenderers.”.

8. On evaluation of the Bid- A, B and C the respondent no. 5 was found to be the lowest bidder and as such was issued the letter dated 2nd February, 2021 being the subject matter of challenge in this writ petition.,
9. The writ petition was filed on 11th February, 2021. On 12th February, 2021 the work order was issued in favour of respondent no. 5. The petitioners by filing a Supplementary Affidavit has also challenged the issuance of the said work order.

The Petitioners’ Submission:-

- a) The petitioners by referring to a letter dated 23rd October, 2019 (appearing at page 185 of the writ petition) issued by the Joint Director, Department of Health and Family Welfare, WBSAP & C submit that a contract issued to the respondent no. 5 in Hooghly district for similar work as in the NIT was discontinued with effect from 1st November, 2019 in view of irregularities noticed in implementation of the said project. The petitioners also say that from the language of the said letter it is apparent that the respondent no. 5 had committed serious offence according to the Health and Family Welfare Department which

resulted in the termination. The respondent no. 5 was required to provide this information as to its contract in respect of a similar project in Hooghly being terminated at the time of submitting its bid. The respondent no.5 had suppressed this fact which amounts to “misleading information” under the NIT conditions for which the bid of the respondent no.5 was required to be rejected summarily.

- b) The petitioners further say that a declaration in non-judicial stamp paper was required to be submitted by the bidders stating that on the date of submitting the bid, no litigation was pending against such bidder and no penal measure has been taken as against such bidder till that date. The letter dated 23rd October, 2019, according to the petitioner clearly shows that penal measures had been taken as against the said respondent no.5 and as such it was obligatory on the part of the respondent no.5 to state the same in its declaration. According to the petitioners, the respondent no. 5 did not state about the penal measure in its declaration (which appears at page 5 of the Supplementary Affidavit) otherwise the Selection Committee would have rejected the bid of the said respondent no.5 summarily.

- c) The petitioners also say that the failure on the part of the respondent no. 5 in disclosing this fact amounts to an intentional act of suppression which raises a doubt as to the conduct and credibility of the said respondent. This also amounts to violation of one of the essential conditions of the NIT and such the bid of the respondent no. 5 is liable to and should be rejected by the State respondents.
- d) The petitioners also say that the Selection Committee may not have been aware about the “misleading information” given by the respondent no.5 at the time of evaluation though they ought to have been aware of such termination in as much as the termination letter dated 23rd October, 2019 was issued by the Health Department but upon these facts being brought to their specific notice by the petitioners could not have issued the work order to the respondent no. 5 on 12th February, 2021 that too after filing of the writ petition.
- e) The petitioners also refer to a certificate issued by the Deputy Chief Medical Officer of Health-II, Hooghly (at page 8 of the Supplementary Affidavit) certifying the successful performance of the petitioner for three years from July, 2016 to October, 2019. This certificate according to the petitioners has also impressed the Selection Committee

during evaluation of bid of the respondent no.5. The petitioners say that the mala fide conduct of the State respondents is clearly apparent from such certificate. The State respondents on one hand by issuing the letter dated 23rd October, 2019 have terminated the work of the respondent no.5 for having committed irregularities and on the other issued successful performance Certificate on 21st November, 2019 to ensure that the respondent no. 5 qualifies for the work under the said NIT. The State respondents, as apparent according to the petitioners were bent upon to give the respondent no. 5 an advantage over other bidders.

- f) The petitioner no.1 is the second lowest bidder after the respondent no.5 and have been doing the same work as under the NIT without any blemish for several years and should be allowed to continue with the work upon rejecting the bid of the respondent no.5. The petitioners also say that the letter dated 29th December, 2020 directing the petitioner to make over possession of the project with the expiry of 31st March, 2021 or with the finalisation of the tender whichever was earlier, should in the facts and circumstances be also quashed.

- g) The petitioners, therefor, seeks cancellation of the letter dated 2nd February, 2021 and the letter dated 12th February, 2021 and to allow the petitioners to continue with the work even after 31st March, 2021.
- h) The petitioners have relied upon the judgements reported in **1979 (3) SCC 489 (Ramana Dayaram Shetty vs. International Airport Authority of India and Others); 2006 (11) SCC 548 (B.S.N. Joshi & Sons Ltd. vs. Nair Coal Services Ltd. and Others)** and **2007 (14) SCC 517 (Jagdish Mandal vs. State of Orissa and Others with Laxman Sharma vs. State of Orissa and Others)** in support of their case as to the illegality in the tender process which has culminated into the issuance of the work order in favour of respondent no. 5 and the scope of judicial review in such a case as that in hand.
- i) The petitioners have also relied upon the judgement reported in **1990(3) SCC 280 (M/S Star Enterprises and Others vs. City and Industrial Development Corporation of Maharashtra Ltd. and Others)** for the proposition that Articles 298, 299 and 14 of the Constitution mandate that State or its instrumentality entering in commercial field like dealing with tenders must act in consonance with the rule of law.

- j) The petitioners say that the State respondents having failed to act in consonance with law in the instant case while dealing with a tender by selecting the respondent no. 5 despite “misleading information” when it was incumbent upon them to reject the bid of the respondent no. 5 has acted mala fide. This opens the avenue of judicial intervention as to the soundness of the decision making process of the State Authorities since it amounts to departure from the essential condition. The impugned action of the State respondents in awarding the work to respondent no.5 is, therefor, required to be struck down.

Submission on behalf of the State Respondents:-

- i) The State respondents say that the letter dated 23rd October, 2019 does not speak of any penal measure. It is clear from the language of the said letter that owing to certain breach of the terms of the contract in respect of a work in District Hooghly the said work was terminated with effect from 1st November, 2019. It is a step taken in terms of the Hooghly contract as the petitioner had committed certain breach as to the terms of said contract. No penal action was taken as against the respondent no.5 by issuance of the said letter. It is a simplicitor termination of the contract in accordance with the terms and conditions of such contract for the breach committed by respondent no.5. No litigation was filed in consequence thereof.

So, as on the date of the respondent no.5 submitting its bid, neither any penal measure was taken against the respondent no.5 nor any litigation had been filed or was pending. The declaration of the respondent no.5, therefore, does not amount to any “misleading information” for which the bid of the respondent no. 5 is required to be rejected by the Selection committee. The State respondents say, assuming without admitting that this information was furnished by the respondent no.5 in its declaration then also the same would not amount to a ground for disqualification of the respondent No.5. The termination of contract in Hooghly even if was known to the Selection Committee then also the Selection Committee was well within its jurisdiction to evaluate the technical bid and the financial bid i.e., ‘Bid-A’, ‘Bid-B’ and ‘Bid-C’ of the respondent no.5 as it was not a ground for summary rejection of the bid of the respondent no.5. On finding that the respondent no.5 had the requisite qualification and being the lowest bidder, the Selection Committee has rightly selected the respondent no.5 and have advised the State respondents to issue the letter dated 2nd February, 2021 which was followed by the letter dated 12th February, 2021 awarding the contract in favour of the respondent no.5.

- ii) It is further submitted by the state respondents that the certificate issued on 21st November, 2019 as to successful completion of work is for the period prior to the date of issuance

of the termination letter dated 23rd October, 2019. The period indicated in the said certificate is between July, 2016 to October, 2019 with regard to a project awarded to the respondent no. 5 in District Purba Medinipur. The performance of respondent no.5 during the relevant period was satisfactory and as such there was no wrong in issuing such certificate. That apart and in any event the job at Purba Medinipur had nothing to do with the project at Hooghly. The issuance of certificate dated 21st November, 2019 cannot, therefor, be alleged to be a mala fide act on the part of the State respondents nor can be construed to be an act favouring the respondent no. 5 as against other bidders. This act also does not come within the parameters laid down in Tata Cellular (supra) or Jagdish Mandal (supra) for judicial review. No judicial intervention is, therefor, warranted on these grounds by exercise of jurisdiction under Article 226 of the Constitution of India.

- iii) It is further submitted by the State respondents that Jagdish Mandal (supra) has categorically laid down that the remedy of an aggrieved party in the case like that of the petitioner is in filing civil suit for damages. Judicial review is eliminated in the facts and circumstances of the case made out by the petitioners. The petitioners if at all are aggrieved by any action taken by the state respondents as against the respondent no. 5 for the Hooghly project cannot also be brought within the ambit of the instant application wherein the petitioners complain of alleged

mala fide and the soundness of the decision making process of the State respondents. The State respondents relying upon these submissions pray for dismissal of the writ petition.

SUBMISSION OF RESPONDENT NO. 5 :-

- 1) The respondent no. 5 has submitted that there is neither any suppression nor any misleading information been given by the said respondent at the time of submitting its bid or even thereafter. The fact remains that there has been no penal measure taken as against the respondent no.5 even after issuance of the letter dated 23 October, 2019. No litigation was filed or pending from the side of the State respondents as against the respondent no.5 at the time of submission of the bid by the said respondents. The respondent no.5 further submitted that the allegations made by the petitioners are wholly misplaced and does not call for any judicial review or intervention by this Court in exercise of its jurisdiction under Art.226 of Constitution of India. The respondent no.5 had all the requisite qualification and credentials for its bid submitted in respect of the said NIT to be considered. The Selection Committee has rightly declared the respondent no.5 to be eligible in the technical bid upon scrutinizing the documents submitted by the said respondents. After being so satisfied, the Selection Committee has evaluated the financial bid of the respondent no.5. After due evaluation, on finding that the offer of the respondent no. 5 to be the lowest, the work has been

awarded to respondent no. 5. There is as such no violation of any of the tender conditions or in the process of evaluation of the bid of the respondent no. 5. The Selection Committee has also not deviated either from the essential conditions or the ancillary conditions enumerated in the said NIT.

- 2) The respondent no. 5 has cited a judgment reported in **2017 (4) SCC 269 (Reliance Telecom Ltd. vs. Union of India and Anr.)** to demonstrate the circumstances in which judicial review is permitted with regard to awarding of government contract through tender process.

FINDINGS:-

- 1) After considering the various conditions of the NIT, the other materials on record, the submissions made by the parties and the judgements cited at the bar I find that there is no deviation from either the essential conditions of the NIT or of any ancillary conditions thereof in the instant case for the reasons enumerated hereunder. No penal measures taken as against the respondent no. 5 by the State respondents either before the submission of the bid by the respondent no. 5 or even thereafter with regard to any of the projects that have been awarded and/or assigned to the respondent no. 5 has been brought to the notice of this Court. The letter dated 23 October, 2019 on a close scrutiny also does not spell out about any penal measure to have been taken as against the respondent no. 5. The termination of the Hooghly contract for alleged breaches have

been committed by the respondent no. 5 does not amount to any penal measure which disqualifies the respondent no. 5 or likely to disqualify the said respondent by summary rejection of its bid. The termination for breach allegedly committed by the respondent no. 5 is also not of such nature which can bring such action within the ambit of “penal measure” which disqualifies the respondent no. 5 from the tender process. The “penal measure” to disqualify a party from the tender process has to be of much higher and greater magnitude than termination for alleged breach of conditions of contract. There has to be an element in such measure without which any further consideration requires a party to be debarred.

The word “penal” in its ordinary dictionary meaning connotes punishment. So penal measure in the context of the said NIT shall mean a measure inflicting punishment upon a party. The termination of the Hooghly contract of respondent no.5 by the state respondents is on the basis of certain irregularities noticed by the state respondents in implementation of work by the said respondent no.5. This measure of the state respondents is based on their version which may or may not hold good on scrutiny by a competent Court or Tribunal. Mere termination, therefor, does not amount to penal measure unless it is held by a competent Court or a Tribunal to be a valid action on the part of the state respondents amounting to punishment.

2) The termination of the Contract, therefor, is not of such magnitude which can be construed as a penal measure debarring the petitioner from participating in the tender under the said NIT. It is also an admitted position that no litigation or proceedings was pending as against the respondent no. 5 on the date of submitting the bid in any Court of law or initiated from the side of the respondents in connection with the Hooghly Project. No litigation has also been initiated as against the respondent no. 5 till date with regard to the Hooghly Project. The petitioners have also not brought to the notice of this Court about any other alleged penal measure as against the respondent no.5. The interpretation of the petitioners as to the termination of the Hooghly contract being a penal measure in this factual matrix is, therefor, unacceptable. Since, no penal measure has been taken or litigation initiated by the State respondents as against the respondent no.5 till the submission of the bid by the respondent no. 5 or even thereafter till the awarding of the contract there is no misleading information from the side of the respondent no.5 which attracts disqualification in terms of the tender conditions.

3) In **Rashmi Metaliks Limited and Another vs. Kolkata Metropolitan Development Authority and Others** reported in **2013 (10) SCC 95** the following clauses fell for consideration:-

“(i) A declaration in the form of affidavit in a non-judicial stamp paper should be submitted stating clearly that the applicant is not barred/delisted/blacklisted by any

government department/government undertaking/statutory body/municipality and of the like government bodies in DI pipe supply tender during last five years and if any such incident is found at any point of time, the tender will be cancelled summarily without assigning any reason whatsoever.

(j) Valid PAN No., VAT No., copy of acknowledgment of latest income tax return and professional tax return.”.

Clause (j) was held not to be an essential element or ingredient or concomitant of the NIT being subject matter of that case. The Hon'ble Supreme Court, however, refrained from making any observation in regard to Clause (i) though violation of such term was sought to be raised before the Hon'ble Supreme Court as the said clause (i) did not fall for any analysis either before the learned Single Judge or the Hon'ble Division Bench of the High Court, *Rashmi Metaliks (supra)* fell for consideration in **CENTRAL COAL FIELD LIMITED AND ANOTHER Vs. SLL – SML (JOINT VENTURE CONSORTIUM) AND OTHERS** reported in **2016 (8) SCC 622** wherein the discretion available to the employer had been specified. It is for the employer as held in the said judgment to consider which are the essential terms and what were the ancillary terms of the tender. Even deviation from essential terms was allowed provided the same was extended to all bidders. Assuming without admitting that the furnishing of the declaration to be an essential condition of the NIT at hand, I find no deviation to have been made by the Selection Committee or the employer.

- 4) In R. D Shetty (supra) the Hon'ble Supreme Court formulated the scope of judicial review by approving the rule enunciated by Mr. Justice Frankfurter in *Viteralli v. Saton*. It was held that the said also emanates from Article 14 of the Constitution but does not rest merely on that article. It is also a rule of administrative law which has been judicially evolved as a check against exercise of arbitrary power by the executive authority and has an independent existence apart from Article 14. The Hon'ble Supreme Court after reviewing several judgments held in the said report that State is entitled to refuse to enter into relationship with any one yet if it does so, it cannot arbitrarily choose any person it likes for entering into such relationship and discriminate between persons similarly circumstanced, but it must act in conformity with some standard or principle which meets the test of reasonableness and non-discrimination and any departure from such standard or principle would be invalid unless it can be supported or justified on some rational and non discriminatory ground. (para 21 page 512). An eligibility criteria was held to be essential term and there can be no departure from strict adherence thereto. This will not only cause discrimination amongst those who participated in the tender but will also bar a person from applying who thought that the eligibility criteria mentioned in the tender condition will be strictly followed and he is not in a position to fulfil the same

thereby is unable to apply not having such eligibility if the essential condition as to eligibility is subsequently diluted.

- 5) In the Tata Cellular (supra) it was held that the principles of judicial review would apply to the exercise of contractual power by Government bodies in order to prevent arbitrariness or favouritism. The need is to remedy any unfairness judicial review is concerned with reviewing not the merits of the decision in support of which the application for judicial review is made, but the decision making process itself. The Hon'ble Supreme Court in the said report deduced certain principles for judicial review which are as follows:-

“94. The principles deducible from the above are:

- (1) The modern trend points to judicial restraint in administrative action.*
- (2) The court does not sit as a court of appeal but merely reviews the manner in which the decision was made.*
- (3) The court does not have the expertise to correct the administrative decision. If a review of the administrative decision is permitted it will be substituting its own decision, without the necessary expertise which itself may be fallible.*
- (4) The terms of the invitation to tender cannot be open to judicial scrutiny because the invitation to tender is in the realm of contract. Normally speaking, the decision to accept the tender or award the contract is reached by process of negotiations through several tiers. More often than not, such decisions are made qualitatively by experts.*

- (5) *The Government must have freedom of contract. In other words, a fair play in the joints is a necessary concomitant for an administrative body functioning in an administrative sphere or quasi-administrative sphere. However, the decision must not only be tested by the application of Wednesbury principle of reasonableness (including its other facts pointed out above) but must be free from arbitrariness not affected by bias or actuated by mala fides.*
- (6) *Quashing decisions may impose heavy administrative burden on the administration and lead to increased and unbudgeted expenditure.*

Based on these principles we will examine the facts of this case since they commend to us as the correct principles.”

- 6) In Jagdish Mandal (supra) after reviewing earlier decisions the Hon’ble Supreme Court in paragraph 22 thereof at page 531 of SCC held as follows:-

“22. Judicial review of administrative action is intended to prevent arbitrariness, irrationality, unreasonableness, bias and mala fides. Its purpose is to check whether choice or decision is made “lawfully” and not to check whether choice or decision is “sound”. When the power of judicial review is invoked in matters relating to tenders or award of contracts, certain special features should be borne in mind. A contract is a commercial transaction. Evaluating tenders and awarding contracts are essentially commercial functions. Principles of equity and natural justice stay at a distance. If the decision relating to award of contract is bona fide and is in public interest, courts will not, in exercise of power of judicial review, interfere even if a procedural aberration or error in assessment or prejudice to a tenderer, is made out.

The power of judicial review will not be permitted to be invoked to protect private interest at the cost of public interest, or to decide contractual disputes. The tenderer or contractor with a grievance can always seek damages in a civil court. Attempts by unsuccessful tenderers with imaginary grievances, wounded pride and business rivalry, to make mountains out of molehills of some technical/procedural violation or some prejudice to self, and persuade courts to interfere by exercising power of judicial review, should be resisted. Such interferences, either interim or final, may hold up public works for years, or delay relief and succour to thousands and millions and may increase the project cost manifold. Therefore, a court before interfering in tender or contractual matters in exercise of power of judicial review, should pose to itself the following questions:

(i) Whether the process adopted or decision made by the authority is mala fide or intended to favour someone;

or

Whether the process adopted or decision made is so arbitrary and irrational that the court can say: “the decision is such that no responsible authority acting reasonably and in accordance with relevant law could have reached”;

(ii) Whether public interest is affected.

If the answers are in the negative, there should be no interference under Article 226. Cases involving blacklisting or imposition of penal consequences on a tenderer/contractor or distribution of State largesse (allotment of sites/shops, grant of licences, dealerships and franchises) stand on a different footing as they may require a higher degree of fairness in action.”

- 7) In B.S.N. Joshi (supra) the Hon’ble Supreme Court after considering several judgments held that the role of superior

Courts in judicial review has been expanded and formulated the following principles:-

“66. We are also not shutting our eyes towards the new principles of judicial review which are being developed; but the law as it stands now having regard to the principles laid down in the aforementioned decisions may be summarised as under:

(i) if there are essential conditions, the same must be adhered to;

(ii) if there is no power of general relaxation, ordinarily the same shall not be exercised and the principle of strict compliance would be applied where it is possible for all the parties to comply with all such conditions fully;

(iii) if, however, a deviation is made in relation to all the parties in regard to any of such conditions, ordinarily again a power of relaxation may be held to be existing;

(iv) the parties who have taken the benefit of such relaxation should not ordinarily be allowed to take a different stand in relation to compliance with another part of tender contract, particularly when he was also not in a position to comply with all the conditions of tender fully, unless the court otherwise finds relaxation of a condition which being essential in nature could not be relaxed and thus the same was wholly illegal and without jurisdiction;

(v) when a decision is taken by the appropriate authority upon due consideration of the tender document submitted by all the tenderers on their own merits and if it is ultimately found that successful bidders had in fact substantially complied with the purport and object for which

essential conditions were laid down, the same may not ordinarily be interfered with;

(vi) the contractors cannot form a cartel. If despite the same, their bids are considered and they are given an offer to match with the rates quoted by the lowest tenderer, public interest would be given priority;

(vii) where a decision has been taken purely on public interest, the court ordinarily should exercise judicial restraint.”

- 8) It was also held in that report “that having regard to the fact that huge public money is involved, a public sector undertaking in view of the principles of good corporate governance may accept such tenders which are economically beneficial to it. It may be true that essential terms of the contract were required to be fulfilled. If a party failed and/or neglected to comply with the requisite conditions which were essential for consideration of its case by the employer, it cannot supply the details at a later stage or quote a lower rate upon ascertaining the rate quoted by others.”
- 9) In Reliance Telecom (supra) cited by the respondent no. 5, the Hon’ble Supreme Court has after considering several authorities, holding the field of judicial review in case of awarding of Government largesse has concurred with views expressed in various judgments considered therein as regards the parameters laid down for judicial review in respect of awarding government contract through tender process. Even

in the very recent judgment reported in **2020 (16) SCC 489 [SILPPI CONSTRUCTIONS CONTRACTORS VS UNION OF INDIA AND ANOTHER]** the ratio laid down in the earlier judgments have not been departed from.

The controversy sought to be raised by the petitioners tested on the touchstone of the parameters of judicial review laid down by the Hon'ble Supreme Court persuades this Court to hold that judicial review is not warranted in the case at hand.

CONCLUSION:-

In view of the aforesaid analysis, I do not find any merit in the contention of the petitioner.

The writ petition is, therefor, dismissed without however, any order as to costs.

Urgent photostat certified copy of this judgment and order, if applied for, be supplied to the parties on priority basis after compliance with all necessary formalities.

(ARINDAM MUKHERJEE, J.)