

09.08.2021.
Item No. 82.
Court No.13
ap

**W.P.A. No. 11899 of 2021
(Through Video Conference)**

**T.D.K. Enterprise & Anr.
Versus
The State of West Bengal & Ors.**

Mr. Pratik Dhar, Id. Sr. Advocate,
Mr. Samir Halder.

..For the petitioners.

Mr. Jishnu Chowdhury,
Md. Talay Masood Siddiqui,
Ms. Manali Ali.

...For the State respondents.

Mr. Pankaj Halder,
Mr. Subhajit Ghosh.

...For the respondent no.5.

The writ petitioners are aggrieved by the notice inviting tender for augmentation of Sub-Station at J.B. Roy SAMC & H, Kolkata dated 14th June, 2021.

The minimum eligibility criteria was that the bidder should have satisfactorily completed similar work of a minimum value of Rs.22 lakhs. It is further submitted that the bid of the private respondent was accepted despite the highest volume of work performed by him was only about Rs.6 lakhs. The writ petitioner registered protest.

The matter takes a strange turn when by communication stated to be 20th July, 2021, the Executive Engineer, Kolkata North Health Electrical Division, P.W.D. revoked the said e-tender at the financial opening stage.

One normally understands the aforesaid statement to mean that the entire tender process has been cancelled and/or withdrawn. Counsel for the private respondent would argue that the expression 'revocation' in the said communication, was meant to indicate suspension of tender process and not cancellation thereof. The work order has therefore been issued to the private respondent declaring him as L1.

Counsel for the private respondent vehemently opposes the submissions of the petitioners that his clients do not fulfil the eligibility criteria. He submits that his clients was fully entitled to participate in the aforesaid NIT given the eligibility criteria mentioned hereinabove.

This Court is unable to accept the submissions of the private respondent that the revocation of the tender can only mean suspension. The entire tender process is arbitrary and illegal and tainted.

Hence the subject tender process, in its entirety, is hereby set aside. The work order issued to the private respondent shall also stand quashed.

The respondent shall, if so advised, be entitled to issue fresh NIT on the terms and conditions that they may specify.

With the aforesaid observations, the instant writ petition must fail and is hereby dismissed.

There will be no order as to costs.

Counsel for the private respondent prays for stay of operation of the instant order since work order has been issued to his client and work has been commenced.

Considering the facts and circumstances of the case, this Court is not inclined to entertain such prayer and hence the same is rejected.

All parties are directed to act on a server copy of this order on usual undertakings.

(Rajasekhar Mantha, J.)