

12.08.2021.
Item No. 88.
Court No.13
ap

**W.P.A. No. 12362 of 2021
(Through Video Conference)**

**Amitabha Mitra
Versus
West Bengal Medical Services Corporation Limited
& Ors.**

Mr. Saptangsu Basu, Id. Sr. Advocate,
Mr. Pratik Dhar, Id. Sr. Advocate,
Mr. Samik Kanti Chakraborty,
Mr. Sachin Shukla,
Mr. Debdatta Ray Chaudhury.
..For the petitioner.

Mr. Jishnu Chowdhury,
Mr. Chayan Gupta,
Mr. Sandip Das Gupta,
Mr. Ayan De,
Md. S.S. Siddiqui.
....For the respondent nos.1 to 3.

Mr. S. N. Mukherjee, Id. Sr. Advocate,
Mr. Ratnanko Banerji, Id. Sr. Advocate,
Mr. S. Nigam,
Mr. Akash Agarwal,
Mr. Shaunak Mitra,
Mr. Sohini Mukherjee.
...For the respondent no.4.

Mr. Soumendra Nath Mukherjee.
..For the private respondent.

The writ petitioner is admittedly a L-II in the tender process under Notice Inviting Tenders published by the respondent no.1 for Supply and Commissioning of Medical Equipment for Setting up/Augmentation of Critical Care Unit (CCU)/High Dependency Unit (HDU) dated 24th June, 2021. The respondent no.4 is the successful tenderer.

It is argued by the Counsel for the petitioner that enquiries made by the petitioner with the original

Chinese manufacturer of the products to be supplied by the respondent no.4, would reveal that the respondent no.4 is not a representative of the said original manufacturer, namely, Dott Medical Company Limited. No such equipment is manufactured at China by the latter.

Counsel for the respondent no.1 produces records. It appears that the Tender Evaluation Committee has duly considered the grievances raised by the petitioner against the private respondent. Enquires made by the Respondent No.1 have revealed that the apprehension of the petitioner are baseless.

Copies of the aforesaid documents are handed over to Mr. Sachin Shukla, Ld. Advocate for the petitioner.

It is submitted by the Counsel for the State that this equipment is being procured by the State to meet the impending third wave of the COVID-19 Pandemic.

The claims of the petitioner against the private respondents are more in the nature of fraud. The Respondent No.1 is satisfied with the credentials of the petitioner, after having verified the same from one 'Martin', the Indian agent of the Chinese manufacturer. However, the State's right to proceed in future against the successful tender and/or its principals, inter alia, in this context, shall remain.

This Court does not find anything wrong in the decision making process or any perversity in the actions of the respondents in the facts of the case even after applying the dicta in the decision of *Tata Cellular vs. Union of India* reported in (1994) 6 SCC 651.

This Court, therefore, sees no reason to interfere with the decision of the respondent no.1.

In view of the above, the instant writ petition must fail and is hereby dismissed.

There will be no order as to costs.

All parties are directed to act on a server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)