

08.12.2021  
Court No.13  
Item No.6  
AP

**WPA 17745 of 2021**

**Anjali Ice Cream Private Limited and Anr.  
Vs.  
The State of West Bengal and Ors.**

(Through Video Conference)

Mr. Pratik Majumder  
Ms. Mayuri Ghosh

... For the Petitioners.

Mr. Samrat Sen, Senior Advocate  
Ms. Manali Ali

... For the State.

Mr. Arjun Roy Mukherjee  
Mr. Joyjeev Medhio

... For the Respondent Nos.3, 4 & 5.

The writ petitioners are aggrieved by cancellation of a tender for running an ice-cream vending outlet at Zoological Garden at Alipore.

Learned counsel for the petitioners claims that pursuant to a Notice Inviting Tender dated 27<sup>th</sup> August, 2021 the writ petitioners had submitted a bid. After evaluation, two bidders were shortlisted and the writ petitioners claim that they were the highest bidder.

It is complained that the respondent authorities have cancelled the said tender process and have floated the same afresh. The private respondent has emerged as the highest bidder in the process.

Learned counsel for the petitioners would argue before this Court that the first tender was cancelled essentially to accommodate the private respondent.

Learned counsel for the petitioners places reliance on ***Sterling Computers Limited Vs. M&N Publications Limited and Ors.*** reported in ***(1993) 1 SCC 445***. By placing the said decision, learned counsel for the writ petitioners argue that his clients were entitled to prior notice and also reasons for cancellation of the first tender.

Having considered the arguments of the counsel for the writ petitioners and respondents, this Court is of the view that the respondents were entitled to cancel the tender at any stage before the issuance of a letter of acceptance of a bid.

This Court is unable to accept the contention of the writ petitioners that an e-mail communication dated 11<sup>th</sup> September, 2021, would constitute a letter of acceptance of the writ petitioners' bid. It has only been stated that the bid has been admitted by the committee.

This Court is of the view that the law has changed since the decision of the Supreme Court in ***Tata Cellular Vs. Union of India*** reported in ***(1994) 6 SCC 651***. The scope of enquiry into the conduct of the State is continues to operate with the same stringency, but with a qualification that the State must be allowed play in the joints.

In that view of the matter, this Court is unable to accept the contention of the writ petitioners that the cancellation of tender process was either to facilitate the private respondent to succeed or that the cancellation is bad

for absence of notice and reasons being given therefor to the writ petitioners.

In view of the matter, the writ petition fails and hereby dismissed.

Interim orders, if any, stand vacated.

There shall be no order as to costs.

All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

**(Rajasekhar Mantha, J.)**