

03-12.2021  
Court No.1  
FB/Subha  
(08).

**CALCUTTA HIGH COURT  
IN THE CIRCUIT BENCH AT JALPAIGURI  
CIVIL APPELLATE JURISDICTION  
(Via Video Conference)**

**MAT 72 of 2021  
With  
CAN 1 of 2021  
With  
CAN 2 of 2021**

Jyoti Prakash Roy @ Jyoti Prakash Ray & Ors.  
Vs.  
Union of India & Ors.

Mr. Arjun Chowdhury,  
Ms. Pratusha Dutta

... For the Appellants.

Mr. Supriya Singh  
...for the Respondent No. 5.

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Party/parties is/are represented in the order of their name/names as printed above in the cause title.

The appellants submit that they intended to bid for a Retail Petroleum Outlet under advertisement by the Bharat Petroleum Corporation Limited (BPCL). It is submitted that the appellants could not bid since site was incorrectly described in the advertisement as a State Highway although by an existing notification of the Central Government, the State Highway stood converted to National Highway.

The appellants therefore allege that the selection was deliberately narrowed down by BPCL to favour their chosen candidate.

For the Respondents/BPCL, it is submitted that the appellants have not taken any steps to apply for the Petroleum Outlet under the advertisement. It is submitted from the records that the concerned retail outlet was described in detail which could not have misled a serious bidder from identifying the site.

BPCL argues that the description of the site as a State Highway was an unintended mistake.

This Court has heard the rival submissions. This Court has considered the materials placed.

It is found that contentious issues on facts have arisen which require to be adjudicated on affidavits. The Hon'ble Single Bench had already directed the parties to exchange their affidavits to the writ petition. This Court is of the further view that the parties should not suffer any loss of forum and therefore must avail of the adjudication before the Hon'ble Single Bench.

Accordingly, the matter is returned to be considered by the Hon'ble Single Bench on merits on the basis of affidavits.

No relief can be extended at this stage in the appeal since the writ petitioner itself is to be heard on merits.

**MAT 72 of 2021** along with **CAN 1 of 2021** and **CAN 2 of 2021** stand **disposed of**.

All parties to act on the server copy of this order duly obtained from the official website of the Hon'ble High Court Calcutta.

Urgent certified copy of this order, if applied for, be supplied to the parties, subject to compliance with all requisite formalities.

(TIRTHANKAR GHOSH, J.) (SUBRATA TALUKDAR, J.)