

ORDER SHEET

**IA/GA NO.1 OF 2021
APO 162 OF 2020
Arising out of
WPO 436 of 2020
IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
ORIGINAL SIDE**

MODEL CONSTRUCTION COMPANY & ORS
VS
STATE OF W.B. & ORS.

BEFORE:

The Hon'ble CHIEF JUSTICE THOTTATHIL B.RADHAKRISHNAN
The Hon'ble JUSTICE ARIJIT BANERJEE
Date : 21ST January, 2021.

(VIA VIDEO CONFERENCE)

Appearance:

Mr.Anjan Bhattacharya, Advocate
...for appellant.

Mr.Amitesh Banerjee, Sr.Advocate
Ipsita Banerjee, Advocate
...for Respondent.

THE COURT: The writ petitioners aspired to participate in a tender process regarding letting out of a launch to the police authorities. They put in their bid. Their bid was rejected. Being aggrieved, the writ petitioners

approached the learned single Judge by filing WPO 436 of 2020. By an order dated December 21, 2020, the learned Judge dismissed the writ petition.

Being aggrieved, the writ petitioners are before us by way of this appeal. We have heard learned counsel for the parties.

Mr. Bhattacharya, learned counsel appearing for the appellants contended that the reasons given by the authorities for rejecting the bid of the writ petitioners are not sustainable.

The learned single Judge in the order impugned observed as follows :-

“If a duly-floated tender process is not tainted by any patent arbitrariness or mala fides on the part of the tenderer, no interference by the writ court is called for.

It is seen from the technical bid summary that the petitioners’ bid was disqualified only after physical inspection and on the specific reasoning that the space management of the said launch did not fulfil the requirement of the tenderer. In a tender process, minimum leeway has to be given to the tenderer to ascertain whether the bid would fulfill the purpose of the tender. In the present case, the reason furnished for disqualification is plausible and well within the authority of the respondents. As such, no interference is called for in the writ jurisdiction of this court.”

We have considered the order impugned. It is a reasoned order and wholly in accordance with the jurisprudence pertaining to interference in tender

matters. In this connection, one may refer to the recent judgement dated 18th December, 2020 of the Hon'ble Supreme Court in the case of ***M/s.Galaxy Transport Agencies, Contractors, Traders, Transports and Suppliers vs. M/s. New J.K. Roadways, Fleet Owners and Transport Contractors & Ors,*** as reported in **2020 SCC OnLine SC 1035**.

In our view, the order assailed before us is completely in accordance with the principles of law which govern the interference in tender process by courts of law. We see, there is no error, infirmity, illegality or impropriety in the order impugned. In the result, the appeal and the stay application are dismissed.

There will, however, be no order as to costs.

(THOTTATHIL B.RADHAKRISHNAN,CJ)

(ARIJIT BANERJEE,J.)