

21.04.2022.
Court No.13
Item No. 110
ap

**W.P.A. No. 6115 of 2022
(Through Video Conference)**

**ESBEE Trading
Versus
The State of West Bengal & Ors.**

Mr. Kishore Mukherjee,
Mr. Sankha Subhra Ray.

...For the petitioner.

Affidavit-of-service filed in Court today be taken
on record.

The petitioner has filed the supplementary
affidavit annexing therewith the terms and conditions
of fresh tender invited after filing of the writ petition.

The writ petitioner is aggrieved by cancellation of
the tender for manufacture of medical equipment, and
repair of furniture and low cost Biomedical Equipment
at RG Kar Medical College and Hospital.

It is submitted that the petitioner participated in
the tender process and the respondents, with a view to
deprive the petitioner and to facilitate the continuation
of work by way of the existing contractor, Mitra Health
Care. It is further submitted that the said Mitra Health
Care also participated in the said tender but could not
succeed.

It is also submitted that this Court should
interfere in the matter since the respondents have
acted in a mala fide manner, and with an intention to

favour the said Mitra Health Care, have cancelled the tender.

Had the tender process been completed, the petitioners would have been the successful tenderers.

It is also submitted that the terms have been made so arduous that they entirely benefit a particular class of contractor, and completely deprive persons like the petitioner.

Reliance in this regard is placed by the Counsel for the petitioner on the decision of **Michigan Rubber (India) Limited –Vs. – The State of Karnataka & Ors.** reported in **(2012) 8 Supreme Court Cases 216**, particularly paragraph 24 thereof.

This Court notes that the said decision was rendered in a case where the terms and conditions of the NIT issued by KSRTC came to be challenged. The ground of challenge therein was that the eligibility criteria was put so high that the petitioner therein would be unable to participate in the tender.

In the instant case, it is seen that the petitioner participated in the tender process and might have been the lowest bidder.

However, it is extremely difficult to accept that the cancellation of tender is motivated or in furtherance of any collateral purpose. The State always has the right to cancel any tender floated by it, even without assigning any reasons.

The said argument cannot be entertained.

In that view of the matter, since there is no demonstrated prejudice suffered by the petitioner, the writ petition is disposed of without any order.

Supplementary affidavit filed in Court today be taken on record.

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.)