

19-01-2022
ct no. 13
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WPA 19688 of 2021
SGS India Private Limited & Anr.
-Versus-
Union of India & Ors.
(Via Video Conference)

Mr. Ratnanko Banerji,
Mr. Soumabho Ghose,
Mr. Deepan Kumar Sarkar,
Ms. Anshumala Bansal
...for the petitioners

Mr. Debasish Basu,
Mr. Arun Bandyopadhyay
...for the Union of India

Mr. Abhrajit Mitra,
Mr. Sourjya Ganguly,
Ms. Pooja Chakraborti,
Ms. Somdutta Bhattacharya,
Ms. D. Saha
...for the respondent no.3

The petitioners are aggrieved by cancellation of the Notice Inviting Tender (NIT) dated December 31, 2019 issued by the Office of the Jute Commissioner, Kolkata for empanelment of Agencies for Inspection of B. Twill Jute Bags.

It is submitted by Mr. Ratnanko Banerji, learned Senior Counsel appearing for the petitioners that the cancellation of NIT is vitiated by mala fides. It is submitted that pursuant to an order passed by a Co-ordinate bench of this Court dated August 6, 2021 in WPA 6080 of 2021, the

Jute Commissioner was required to assess the objections raised by the petitioners.

The said objections were considered in terms of the order of this Court (supra) and disposed of by order dated November 2, 2021. It was held that the objections of the petitioners as also the other tenderer M/s. Cotecna Inspection India Pvt. Ltd., cannot be disposed of or adjudicated by the Jute Commissioner only based on the two representations.

A large number of acts and omissions of the petitioners, the said M/s. Cotecna Inspection India Pvt. Ltd., as also the department have been noted and recorded in the order. Immediately thereafter on November 16, 2021, the impugned order cancelling the entire tender process has been passed.

This Court is of the view that the process of cancellation cannot be faulted. It is quite possible that the petitioners may have been affected as a consequence of cancellation and some parties may have been benefited. Such losses cannot be tested under Article 226 of the Constitution of India. This Court also cannot come to any conclusive finding that the cancellation was aimed at benefiting any particular tenderer or prejudicing the petitioners.

The arguments of the counsel for the petitioners that new tender is being floated with tweaked terms, to benefit the said M/s. Cotecna Inspection India Pvt. Ltd. is rather premature when the new tender has not been floated. The argument is also too remote.

With the aforesaid observations, the writ petition is disposed of.

It is made clear that the respondents shall be entitled to float fresh tender as they may be advised in accordance with law and in terms of their requirement.

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.)