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06.06.2023  
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In the High Court at Calcutta  
Constitutional Writ Jurisdiction  
Appellate Side

W.P.A. No. 1616 of 2023

Rajib Roy

-vs.-

The State of West Bengal & Ors.

Mr. Satrajit Sinha Roy

...for the petitioner

Mr. Samrat Sen,

Mr. Nilotpall Chatterjee,

Mr. Amritlal Chatterjee

...for the State of West Bengal

The petitioner has sought for consideration of a representation made by the petitioner on January 03, 2023 in respect of general guidelines pertaining primarily to eligibility conditions of the bidders, which according to the petitioner, would exclude the participation of several small contractors, who are already working in the field of supplying cooked diet to the government health institutions and hospitals.

Learned counsel for the State submits that a pre-bid meeting was already fixed on January 06, 2023, as evident from the date and time schedule of the e-tender as appearing at page 93 of the present writ petition.

However, the petitioner, only after participating in the tender process and becoming unsuccessful therein, has now come up with the present writ petition seeking

a consideration of his representation, which has already spent its force.

It is undoubtedly true that the petitioner cannot resile from his original stand, which he took by participating in the tender process, and take a chance thereafter subsequent to becoming unsuccessful therein, by calling in question the terms of the tender.

However, it prima facie transpires that the representation-in-question does not pertain merely to the tender-in-question, which cannot be recalled or set aside now at the instance of the unsuccessful participant/petitioner, but also to the general guidelines for supply of cooked diet to government health institutions and hospitals, now and in the near future.

In such view of the matter, W.P.A. No. 1616 of 2023 is disposed of by directing the respondent-authorities to consider the representation of the petitioner dated January 03, 2023, annexed at page 108 of the present writ petition, on the limited aspect as to whether the suggested alterations of the petitioner can or ought to be incorporated in the guidelines for the future tenders to be issued in respect of supply of cooked diet for the State of West Bengal with regard to state medical institutions and hospitals.

Such consideration shall be concluded at the earliest, preferably within a month from date.

If the respondent-authorities deem it necessary, a hearing may be given to the petitioner in support of the

petitioner's representation prior to adjudicating the same.

Upon such decision being taken, the same shall be communicated in writing immediately thereafter to the petitioner by the respondent-authorities.

There will be no order as to costs.

Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance of all necessary formalities.

(Sabyasachi Bhattacharyya, J.)