

**IN THE HIGH COURT OF JUDICATURE AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE**

HEARD ON: 17.08.2023

DELIVERED ON: 17.08.2023

CORAM:

**THE HON'BLE CHIEF JUSTICE T.S. SIVAGNANAM
AND**

THE HON'BLE MR. JUSTICE HIRANMAY BHATTACHARYYA

M.A.T. 1251 of 2023

With

I.A. No. CAN 1 of 2023

Shiba Prosad Banerjee

Vs.

The Union of India & Ors.

Appearance:-

Mr. Saptansu Basu

Mr. Swarup Paul

Mr. Surya Maityfor the appellant

Mr. Ashok Kumar Chakraborty, Ld. A.S.G.

Ms. Sayani Roy Chowdhuryfor the Union of India

Mrs. Aparna Banerjeefor the respondent no.6

JUDGMENT

(Judgment of the Court was delivered by T.S. SIVAGNANAM, C.J.)

1. This intra-Court appeal filed by the writ petitioner is directed against the order dated 3rd July, 2023 in W.P.A. 15162 of 2023. The appellant filed the said writ petition challenging certain terms and conditions of the Notice

Inviting Tender issued by the respondent no.6. The writ petition was dismissed by the impugned order and challenging the same, the appellant has preferred this appeal.

2. The learned advocate appearing for the 6th respondent based on written instruction submits that the Notice Inviting Tender, which was issued by the 6th respondent has been cancelled on 7th August, 2023. Copy of such proceeding has been handed over to the learned advocate appearing for the appellant.
3. The learned Additional Solicitor General appearing for the Union of India submitted that the challenge in the writ petition was to a corrigendum issued by the 6th respondent with regard to a tender notification calling for tenders for supply of food articles for cancer patients stipulating 05 years' experience in the particular field. It is submitted that the learned single Bench had rightly dismissed the writ petition stating that it is for the tender inviting authority to prescribe terms and conditions and these are all technical matters, which cannot be gone into in a writ petition.
4. It is submitted by the learned advocate appearing for the appellant that since the petitioner had challenged various terms and conditions of the Notice Inviting Tender issued by the 6th respondent and in the light of the fact that the 6th respondent has now withdrawn the said Notice Inviting Tender, the appellant's right should be preserved and kept open and the observations made by the learned single Bench in the impugned order should not stand in the way of the appellant in the event, the appellant is desirous of challenging any of the terms and conditions of any tender notice that may be issued by the 6th respondent in future. It goes without

saying that since the impugned tender notice has itself been cancelled on 7th August, 2023, the challenge to the terms and conditions has become academic. Therefore, whatever observations/findings rendered by the learned single Bench in the impugned order will not stand in the way of the appellant in the event the appellant is desirous of challenging any of the terms and conditions of any tender notification that may be issued by the 6th respondent in future.

5. With the above observations/clarifications, the appeal and the connected application stand disposed of.
6. No costs.
7. Urgent photostat certified copy of this order, if applied for, be furnished to the parties expeditiously upon compliance of all legal formalities.

(T.S. SIVAGNANAM)
CHIEF JUSTICE

I agree.

(HIRANMAY BHATTACHARYYA, J.)