

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

HEARD ON: 06.07.2023

DELIVERED ON: 06.07.2023

CORAM:

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

MAT 1257 of 2023

Vasav Enterprises Private Limited & Anr.

Vs.

Damodar Valley Corporation & Anr.

Appearance:-

Mr. Mainak Bose

Mr. Risabh Karnani

Mr. Anurag Bagaria

.....For the Appellants

Mr. Samrat Sen, Sr. Adv.

Mr. Swarajit Dey

Ms. Riddhi Jain

.....For the respondent No.1/D.V.C.

Mr. Soorjya Ganguli

Ms. Radhika Mishra

.....For the respondent no.2

JUDGMENT

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

1. This intra-Court appeal by the writ petitioners is directed against the order dated 5th July, 2023 in W.P.A. 15856 of 2023. The appellants had filed the said writ petition challenging the rejection of the tender submitted by the appellants as invited by the 1st respondent/Corporation. The reason for rejection being that the Integrity Pact has not been uploaded in full.

2. The learned advocate for the appellants would strenuously contend that it is not disputed that the Integrity Pact was uploaded but there were two pages, which were blank and this came to the knowledge of the appellants only after an e-mail was received from the 1st respondent /Corporation.
3. It is submitted by the learned advocate for the appellants that the earnest money deposit amount is ready and it is available in the e-wallet of the appellants. Therefore, it is submitted that the appellants should be permitted to participate in the tender.
4. After we have heard the learned senior advocate appearing for the 1st respondent/Corporation as well as the learned advocate appearing for the 2nd respondent, we find that the documents, which were required to be uploaded in full were required to be signed by the appellants in all pages and the said document is an Integrity Pact.
5. In terms of the conditions stipulated in the notice inviting tender, more particularly under the caption "REQUIREMENTS FOR PARTICIPATION IN ONLINE E-AUCTION", it has been mandated that scan copy of Integrity Pact duly signed in all pages by the authorized signatory, who is signing the Bid as per format enclosed is to be uploaded with qualifying requirement and the same i.e. original IP must be produced before issuance of sale release order. The condition further states that Bids without scan copy of Integrity Pact uploaded in mjunction's portal shall be rejected outrightly. There is a note, which has been appended below clause – C of the said condition, which states that the documents mentioned therein in support of pre-qualification requirement must be uploaded by the bidders

on mjunction's portal on or before the last date of submission of documents. However, hard copies of the documents will have to be submitted by the successful buyer/ H1 bidder post e-auction to DVC. Furthermore, under the general instruction to the bidder, all transactions entered into by the buyer/ bidder arising out of e-auction shall be governed by the Integrity Pact as per Annexure – VI of the tender document.

6. Thus, the document, which was required to be uploaded in full was required to be signed by the intending bidder in all pages and admittedly the appellants having not complied with the condition, the question of now interfering with the decision of the 1st respondent/Corporation or permitting the appellants to participate in the tender would not arise, more so, in exercise of powers under Article 226 of the Constitution of India.
7. Therefore, we find no good ground to interfere with the order passed by the learned Single Bench.
8. Accordingly, the appeal is dismissed.
9. No costs.
10. 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.)

Pallab/K.S. AR(Ct.)