

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

W.P.A. No. 8681 of 2024

Ms. Suchita Sahal
Vs.
Union of India & Ors.

Mr. Billwadal Bhattacharyya,
Mr. Suryaneel Das,
Ms. Shivansi Indoria,
Mr. Chiranjit Pal
... for the petitioner

Mr. Shivchandra Prasad
...for the respondent nos. 3 to 6

Mr. Ayan Banerjee,
Mr. Arijit Bhowmick,
Ms. Pooja Agarwal,
Ms. Debashree Mukherjee
...for the respondent no. 7

1. The petitioner has challenged a tender process on certain grounds, including that the private respondent allegedly did not fulfil the prior experience criterion as stipulated in the tender.
2. Learned counsel appearing for the respondent nos. 3 to 6 and respondent no. 7 argue that the petitioner did not challenge the technical evaluation at the appropriate stage but participated in the financial evaluation and only

after coming out as the L-4 bidder in financial evaluation, has preferred the instant challenge.

3. It is argued that even if the petitioner could hypothetically succeed in her challenge, the petitioner does not have a cause of action, since she turned out to be the L-4 bidder and there is no allegation whatsoever against the L-2 and L-3 bidders. Hence, even if the L-1 bidder was disqualified, the L-2 bidder and if not the L-2, the L-3 bidder, would be the beneficiary.
4. It is further pointed by learned counsel for the respondent nos. 3 to 6 that the primary relief sought in the writ petition is consideration of the representation of the petitioner given subsequently, which has since been dealt with by the respondent nos. 3 to 6.
5. Learned counsel for the petitioner files supplementary affidavits and discloses that there was a subsequent consideration of the representation but that the petitioner has grievances against the said consideration as well. It is sought to be argued that the said semblance of a consideration was a sort of judicial overreach.
6. Be that as it may, the writ petition cannot be entertained at all due to two major reasons. First, the petitioner turned out to be an L-4

bidder at the financial stage and, as such, nothing hinges regarding the fate of the petitioner on the outcome of the present writ petition. Thus, it cannot but be said that no cause of action, insofar as the writ petition is concerned, has been disclosed in the writ petition.

7. Secondly, the petitioner kept her silence even after the technical evaluation stage and actually participated in the financial evaluation, thereby giving a go-bye to her grievance, if any, to the technical evaluation. Only after having participated in the financial evaluation and having failed there, the petitioner seeks to challenge the modalities of the technical evaluation *post facto*. Thus, the petitioner has sought to take a chance, which ought not to be permitted by the writ court on the ground of equity as well.
8. In view of the above reasons, the writ petition ought not to be entertained by this Court.
9. Accordingly, W.P.A. No. 8681 of 2024 is dismissed on contest without, however, any order as to costs.
10. The documents handed over by learned counsel for the respondent no. 7 today be kept on record.

11. 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.)