

D/L.43.
May 22, 2024.
MNS.

WPA No. 13777 of 2024

A-One Enterprise and another
Vs.
The State of West Bengal and others

Mr. Arjun Roy Mukherjee,
Mrs. Saheli Mukherjee

... for the petitioners.

Mr. Anirban Ray,
Mr. Tanoy Chakraborty,
Mr. Debraj Sahu

...for the State.

Mr. Sagar Bandyopadhyay,
Mrs. Soma Kar Ghosh

...for the respondent nos. 9 and 10.

1. The petitioner no. 1, a participant in the concerned tender process, has made several representations to the Tender Issuing Authorities, *inter alia*, alleging that there was irregularity in diet schedule given by some of the bidders.
2. That apart, at the financial evaluation stage, since there was a tie, before going into a draw of lots, the Tender Inviting Authorities are required to comply with Clause 39 of the tender documents which mandates that the calculation of rates of acceptable bidders will

be on the basis of overall monthly financial implication for supply of all categories of diet.

3. Learned counsel appearing for respondent no. 10 contends that the petitioner no. 2's brother is at present doing the work contemplated in the tender.
4. In order to perpetuate such work by the family of the petitioner no. 2, the petitioners are seeking to stall the tender process by making frivolous representations.
5. It is further argued that there have been previous rounds of litigation. In the event the petitioners were of the perception that Clause 39 is not being complied with, it was open for the petitioners to take such objection at that stage. Having failed to do so, the same cannot be permitted to be opened up at this stage.
6. Learned counsel appearing for the Tender Issuing Authorities contends that pursuant to the order of this Court, the tender process has mandatorily to be concluded at an early date.
7. Hence, the representations of the petitioners are not only premature but they would stall the tender process unnecessarily.
8. Upon considering the contentions of the parties, it appears that the petitioners' apprehension are premature, since the

Tender Inviting Authorities are yet to take a final call on the financial bids, which have been merely opened but no decision has been arrived at as yet in respect of who is the successful bidder entitled to the issuance of work order.

9. It is expected that the Tender Issuing Authorities shall comply with not only Clause 39 of the tender document but also other relevant terms of the tender as well as the governing Financial Rules while taking a final decision in the tender process.

10. Hence, there is no scope to interfere at this stage.

11. Accordingly, WPA No. 13777 of 2024 is disposed of in the light of the above observations, making it clear that the merits of the contentions of the parties have not been gone at this stage and keeping it open for any aggrieved bidder to challenge the tender process in the event it is found that there is any gross illegality or violation or non adherence to the tender clauses or the rules of fair play by the Tender Issuing Authorities.

12. Since affidavits have not been invited, all the allegations made by the parties against each other are deemed to have been denied.

13. There will be no order as to costs.

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

(Sabyasachi Bhattacharyya, J.)