

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

Present:

The Hon'ble Justice Debangsu Basak

And

The Hon'ble Justice Md. Shabbar Rashidi

**MAT 670 of 2020
With
IA NO: CAN/1/2020**

**VSAIPPL-SATYAM INFRA (JV) AND ANR.
VS
COAL INDIA LIMITED AND ORS.**

For the Appellants : Mr. Sunny Nandy,
Mr. Tamal Singha Roy, Advocates

For the Respondent : : Mr. Shiv Shankar Banerjee,
Nos. 2-5 Ms. Sanchita Barman Roy,
Mr. Nilarnab Paul, Advocates, Advocates

Heard & Judgement on : August 8, 2024

DEBANGSU BASAK, J.

- 1.** Appeal is directed against the judgment and order dated September 25, 2020 passed by the learned Single Judge in WPA 5950 of 2020.
- 2.** By the impugned order, learned Single Judge, dismissed the writ petition.
- 3.** Learned advocate appearing for the appellants submits that, the appellant No.2 participated in the tender process floated by the respondent

No. 1. Appellant No.2 was declared as the lowest bidder (L-1). Thereafter, the Tender Committee cancelled the bid and forfeited the earnest money.

4. Learned advocate appearing for the appellants submits that, the appellant No. 2 as on date seeks to return of the earnest money deposit (EMD).

5. Learned advocate appearing for the respondents draws the attention of the Court to the minutes of the Tender Committee. He submits that, in accordance with the terms and conditions of the Notice Inviting Tender (NIT), a tenderer was required to submit the requisite documents online and if any information/declaration furnished by the L-1 bidder was found to be wrong by the Tender Committee during the evaluation of documents uploaded by the bidder, which changes the eligibility status of the bidder then the bid shall be rejected and the EMD of the L-1 will be forfeited.

6. Records made available to Court establish that the appellant No.2 participated in the tender process. Appellant No.2 was declared as the L-1 bidder. Appellant No. 2 submitted EMD. Thereafter, documents submitted by the appellant No.2 was evaluated by the Tender Committee and found to be insufficient to meet the NIT requirement.

7. Tender Committee held a meeting for the purpose of evaluation of the documents of the appellant No. 2 where it was found that, the work experience certificate on forfeiture was found to be insufficient to meet NIT requirement. This finding of the Tender Committee is not established to be perverse during the course of hearing of the appeal.

8. Terms and conditions of NIT permitted forfeiture of EMD on the contingencies stipulated therein. Tender conditions prescribed an eligibility criteria. Documents submitted in support of the eligibility criteria of the

appellant No. 2 was found to be insufficient to meet such eligibility criteria. Therefore, the decision of the Tender Committee in holding that the appellant No. 2 did not meet the eligibility criteria cannot be said to be perverse.

9. In such circumstances, the decision of the Tender Committee in rejecting the bid of the appellant No. 2 and forfeiting the EMD cannot be faulted.

10. In view of the discussions above, we find no merit in the present appeal.

11. MAT 670 of 2020 along with connected application are **dismissed** without any order as to costs.

(Debangsu Basak, J.)

12. I agree.

(Md. Shabbar Rashidi, J.)