

24.09.2024
Court No. 2
Sl. No.10
AGM

**Calcutta High Court
In the Circuit Bench at Jalpaiguri
Appellate Jurisdiction**

W.P.A. 2004 of 2024

**Sanjib Bhowmik
-versus
State of West Bengal & Ors**

**Mr. Subinay Dey.
Mr. Debanjan Das.
...For the Petitioner.**

**Ms. Bedashruti Bose.
Ms. Rima Sarkar.
... For the State.**

The petitioner is aggrieved by the act of the respondent authority in cancelling a tender in which the petitioner submitted his bid and was declared to be the L-1 bidder.

It has been submitted that the tender was cancelled without any notice to the participants and without disclosing any reason. The same has been cancelled to favour the candidate of their choice.

Learned advocate representing the respondents relies upon the instruction forwarded by the District Education Officer, Paschim Banga Samagra Shiksha Mission, Cooch Behar signed on 23rd September, 2024 which admits that the petitioner was declared as L-1 bidder but at the same time submits that the work for which the NIT was issued was cancelled as it appeared to the district administration, during review meeting, that a lot of funds are lying with the blocks related to 15th Finance Commission and the SBM works in all the

blocks. It would be practically impossible for the Block Development Officers and other relates officers to monitor all the development works along with the works put to tender simultaneously.

In the interest of public service, having no other alternative, the authority was compelled to cancel the NIT.

West Bengal Agro Industries Corporation Limited, a West Bengal Government agency has been requested to take necessary steps for floating of tender and monitoring thereof. The said Corporation already floated tenders and work orders have been issued. The works are also in progress. The Corporation is entrusted to execute the tender for the construction work for proper implementation of the schemes.

The NIT contains a clause which mentions that that tender inviting authority reserves the right to reject any or all the tenders without assigning any reason whatsoever and split up the work, if necessary.

It has been submitted that the petitioner signed the tender document being fully aware of the conditions mentioned therein. At this stage the submission of the petitioner cannot be accepted. Prayer has been for dismissal of the writ petition.

I have heard the submissions made on behalf of all the parties.

It is settled law that the scope of judicial review in tender matters is extremely limited. The Court can only scrutinize as to whether the process in question was in accordance with the principles of natural justice or not.

In the instant case the petitioner participated in the tender process and was declared as L-1 bidder. No right has accrued in favour of the petitioner on being declared as the L-1 bidder.

The respondent authority thought it fit to cancel the tender process and to permit the West Bengal Agro

Industries Corporation limited, a Government agency to proceed with the tender work. The Court does not find any illegality on the part of the respondent authority in cancelling the tender.

The cancellation did not require further notice to be issued to the participants nor the ground for cancellation is required to be disclosed in each and every occasion where a tender is cancelled.

The Hon'ble Supreme Court in ***State of Jharkhand & Ors. Vs. CWE-Soma Consortium*** reported in ***(2016) 14 SCC 172*** held that the right to refuse the lowest or any other tender is always available to the Government. So long as the bid has not been accepted, the highest bidder acquired no vested right to have the auction concluded in his favour. The State is well within its right to reject the bid without assigning any reason thereof. The Court reiterated that while exercising the power of judicial review, the Court does not sit as appellate Court over the decision of the Government but merely reviews the manner in which the decision was made.

The Division Bench of this Court in the matter of ***Biswanath Saha vs. State of West Bengal & Ors.*** reported in ***AIR 2022 Cal 279*** held that in each and every case State or its authority is not required to give reasons for cancellation of a bid.

In view of the above, no relief can be granted to the petitioner in the instant case.

The writ petition fails and is hereby dismissed.

As the tender in question has been cancelled, the earnest money and the security deposit submitted by the petitioner shall be returned to the petitioner at the earliest but positively within a period of sixty days from the date of communication of this order.

Instruction forwarded by the District Education Officer, Paschim Banga Samagra Shiksha Mission,

Cooch Behar signed on 23rd September, 2024 is taken on record.

Urgent certified photocopy of this order, if applied for, be supplied to the parties upon compliance of usual legal formalities.

(Amrita Sinha, J.)