

1. The matter relates to a notice inviting e-tender published by the Director of Fisheries on 18.09.2024 where the estimated amount put to tender was Rs. 1,25,13,750.00/-. The work credential required the bidder to produce credentials for supply of shrimp seed of the minimum value of 30% in single work of the estimated amount put to tender or to produce credentials of two completed works of minimum value of 20% of the estimated amount put to

tender during last five years. The closing date of submission of bid was 30.10.2024 at 5.00 P.M.

2. The petitioners being aggrieved with by the terms and conditions of the notice inviting e-tender filed several representations before the respondent authorities. None being considered, the instant writ petition was prepared and affirmed on 23.12.2024 and was filed on 03.01.2025. By the said date, the tender inviting authority proceeded with the tender process and successful bidder was selected.

3. The allegation in the writ petition is that the terms and conditions of the tender were formulated in a manner, particularly tailor-made for a couple of bidders. The total estimated amount put to tender has been inflated and sky rocketed to an astronomical figure so as to keep most of the bidders out of the fray.

4. Specific contention of the petitioners is that the authority is patronizing formation of a cartel so that most of the bidders are kept out of the competition.

5. It has been further submitted that in future also, if tender is floated quoting the similar amount, then none would be able to qualify as the value put to tender would be extremely high and nobody would be able to match the credentials sought for.

6. The private respondents oppose the submission made by the petitioners. It has been submitted that as the petitioners did not participate in the

tender process, accordingly, they ought not to be permitted to challenge the terms and conditions of the notice inviting e-tender.

7. In support of the said submission, reliance was placed on the judgment delivered by the Division Bench of this Court in the matter of **Pathak Engineering Corporation & Anr. vs. State of West Bengal & Ors.** reported in **(2023) 2 HCC (Cal) 55 : 2023 SCC Online Cal 4688** wherein the Court held that not having participated in the tender process, the appellants do not have the locus standi or the right in law to assail the tender process.

8. The private respondents contend that the petitioners were successful in the tender process estimated amount of which is nearly rupees one crore. Only because the petitioners were unable to fulfill the eligibility criteria of the notice inviting e-tender, the petitioners were not in a position to participate in the subject tender. The allegation of formation of cartel and inflation of the estimated amount put to tender are denied. Prayer has been made to dismiss the writ petition.

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

10. It is settled law that it is for the tender inviting authority to fix up the terms and conditions of the tender. A bidder does not have any right to make any submission with regard to the terms and conditions that may be fixed by the tender inviting authority. The authority which floats the contract or tender is the best judge to fix up its terms and conditions. The scope of judicial review in tender matters is extremely limited. The same is

only to ensure that there is no arbitrariness, unfairness, bias or mala fide in the process of holding the tender.

11. It appears in the instant case that the authority fixed a particular amount to be the estimated amount put to tender. The petitioners having failed to match the minimum required credential, was unable to participate in the bidding process. It is also evident that though the notice inviting e-tender was published on 18.09.2024 and the last date for submission of bid was 30.10.2024, the petitioners approached this Court long after the tender process stood concluded.

12. The petitioners refer to several representations made to the authority challenging the terms and conditions of the tender document. Surprisingly, it appears that even though the petitioners did not get any response from the authority before the last date of submission of bid, the petitioners waited till the end of December to file the instant writ petition. In the meantime, the tender process stood concluded and a bidder was found successful.

13. I am of the opinion that at such a belated stage, it will not be proper to exercise the power of judicial review at the instance of the petitioners. The Court is not inclined to interfere with the matter. The writ petition stands **dismissed**. The interim order stands vacated. Consequently, the connected applications also stand disposed of.

14. Affidavits filed today in Court are taken on record.

15. Urgent certified photostat copy of this order, if applied for, shall be given to the parties as expeditiously as possible on compliance of all necessary formalities.

(Amrita Sinha, J.)