

**IN THE HIGH COURT OF JUDICATURE AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

**HEARD ON: 16.07.2025
DELIVERED ON: 16.07.2025**

**PRESENT:
THE HON'BLE MR. JUSTICE GAURANG KANTH**

WPA 588 OF 2025

SUBRATA BISWAS

VERSUS

**THE PRINCIPAL SECRETARY, URBAN DEVELOPMENT AND MUNICIPAL
AFFAIR DEPARTMENT & ORS.**

Appearance:-

*Mr. Debapriya Gupta, Adv.
Mr. Bhaskar Duttgupta, Adv.*

.....**For the Petitioner**

*Mr. Amal Kr. Sen, Adv.
Mr. Lal Mohan Basu, Adv.*

..... **for the State**

*Mr. Debasish Saha, Adv.
Mr. S. Pal, Adv.*

.....**for the ADDA**

*Mr. Sourav Sen, Adv.
Mr. Jayanta Kr. Mondal, Adv.
Mr. S. Rakshit, Adv.
Ms. A. Chakraborty, Adv.*

.....**for the Respondent No. 6.**

JUDGMENT

Gaurang Kanth, J. :-

1. The petitioner in the present writ petition challenges the work order awarded to M/s MR Enterprise, the newly added respondent, pursuant to the e-notice inviting tender No. ADDA/DGP/ED/N-19 of 2024–25 dated 04.10.2024.

2. According to the Petitioner, the Respondent-Municipality issued an online tender for the "*Construction of Divided Carriageway from DVC More to MAMC Shiv Mandir, Durgapur*" vide the aforementioned e-NIT. The tender stipulated that intending bidders must possess relevant experience and credentials, particularly in the successful completion of construction of paved carriageways using bituminous asphalt. The Petitioner claims that he fulfilled all the requisite eligibility conditions and accordingly submitted his bid. The Petitioner's counsel submits that M/s M.R. Constructions (now M.R. Enterprise) lacked the necessary qualifications and that their bid for a similar work contract had previously been rejected by the Respondent-Municipality. However, on this occasion, the technical bid of M/s M.R. Constructions was not rejected, despite the alleged absence of qualifying credentials. Upon the opening of financial bids, M/s M.R. Constructions was declared the lowest bidder (L-1), while the Petitioner was ranked second (L-2). Consequently, the work was awarded to M/s M.R. Constructions. The Petitioner raised objections to the award; however, the Respondent-Municipality proceeded to finalize the contract in favor of the L-1 bidder without, according to the Petitioner, due consideration of his grievances.

3. In response, learned Counsel for the ADDA submits that the bid evaluation Committee duly considered the petitioner's objections regarding the technical credentials of M/s MR Enterprise. A review and revised scrutiny of the bid documents was conducted on 19.12.2024 by the bid evaluation committee in response to the petitioner's complaint and the said report has been placed on record.

4. The primary objection raised by the petitioner relates to the alleged lack of experience of M/s MR Enterprise in laying mastic asphalt. Upon a detailed review of the completion certificate submitted by M.R Enterprise, it was observed

by the bid evaluation committee that the firm had executed works involving the laying of asphaltic concrete as the surface wearing course force in a project undertaken for SAIL at the ASP Unit, specifically titled as 'Civil and Electrical Works- Expansion of SAIL Warehouse Durgapur'. It was further noted that asphaltic concrete as a surface layer is a more delicate and technically demanding compared to mastic asphalt. While the preparation and laying of asphaltic concrete require sophisticated, mechanized and computer controlled machinery, whereas mastic asphalt concrete requires manually operated machinery and labour intensive methods. Accordingly, the bid evaluation committee concluded that asphaltic concrete works are of a similar, if not higher, technical nature than mastic asphalt. The Committee found the credentials of M/s M.R Enterprise to be adequate and therefore, overruled the petitioner's claim.

5. This Court has heard the learned Counsel for the petitioner as well as the respondent and perused the materials on record.

6. The core objection of the petitioner relates to the alleged inadequacy of technical credentials on the part of M/s M.R Enterprise, particularly the absence of work experience involving mastic asphalt. However, this objection was duly considered and rejected by the bid evaluation committee, which comprised technical expertise in the relevant field. The Committee, being aware of the specific technical requirements and qualifications of bidders, expressed its discretion in accepting the experience of M/s M.R Enterprise was sufficient to meet the tender eligibility criteria. The award to the tender in favour of M/s M.R Enterprise was made based on this technical assessment.

7. It is well-settled that the scope of judicial review in matters pertaining to award of tenders is extremely limited. It is primarily with the tendering authority

to determine the nature of work as well as the eligibility criteria. It is well-settled that Courts do not sit as appellate authorities to substitute their own views for that of the tendering authority. Judicial interference is warranted only in cases of procedural irregularity, arbitrariness, mala fides or violation of principles of natural justice is involved. In the present writ petition none of these above grounds are attracted.

8. In view of the above, this Court finds no illegality, arbitrariness, mala fides or procedural irregularity in the decision of the tendering authority to award the work in favour of the M/s M.R Construction being the lowest bidder.

9. In view of the above, the writ petition stands dismissed.

10. Urgent photostat certified copy of this judgment be supplied to the parties, if applied for, as early as possible.

(Gaurang Kanth, J.)

KOLE

