

33
08.04.2025
d.p.

**In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

W.P.A 2084 of 2025

**Sri Nirupam Chandra Das
-versus
The State of West Bengal & Ors.**

**Mr. Anindya Halder,
Mr. Zubair Ahmed.
...For the Petitioner.**

**Mr. Partha Sarathi Deb Barman,
Md. M Nazar Chowdhury.
...For the Respondent no.8.**

**Mr. Vimal Kumar Shahi, AGP
Ms. Pratiti Das
...For the State.**

1. The petitioner and the private respondent both participated in response to a tender floated by the Government of West Bengal, Suryadaya Children Home for Deaf and Dumb Boys and Girls, Karnajora, Raiganj, Uttar Dinajpur and emerged as L1 bidders.

2. Learned advocate appearing on behalf of the petitioner states that to find out the best bidder, a tie-bid was conducted wherein the petitioner quoted 0% rate and the private respondent submitted rate in the negative. The authority accepted the bid of the private respondent.

3. The petitioner is aggrieved by the same.

4. It has been submitted there is no provision for quoting negative rate. The authority could not have travelled beyond the tender document to accept the bid of the private respondent.

5. Prayer has been made to find out modalities by which both the petitioner and the private respondent can be accommodated.

6. Learned advocate appearing on behalf of the private respondent submits that there is provision for quoting negative bid, which the private respondent did, and the work order has already been issued in favour of the private respondent and the private respondent has deployed its men and agents for performing the work.

7. Learned advocate appearing on behalf of the State respondents submits, upon instruction that, in case of tie-bid certain procedures are to be adopted. After new bid was invited, the private respondent submitted bid which was 4.75% less than the zero bid submitted by the petitioner.

8. As per Memo No. 4599-PWD/12039/2/2020-DIR- (PWD) dated 29th October, 2021 if the L1 sealed bid rate is zero or negative, the bid can be accepted provided the concerned bidder submits Bank Guarantee of 10% of the value of contract as Additional Performance Security.

9. A clarification on the minimum rate of percentage as service charge was sought for from the private respondent. The private respondent accepted to deposit the Additional Performance Security of Rs.2,48,258/- in favour of M/S Deaf and Dumb Suryadaya SCH Bank Account.

10. The clarification submitted by the private respondent was unanimously accepted by the members of the tender committee on 19th December, 2024.

11. A letter of acceptance of tender was served upon the private respondent with request to deposit security money of Rs.40,000/- which was duly complied

with on 30th January, 2025. The private respondent is currently providing the services in terms of the tender document.

12. Upon hearing the submission made on behalf of the parties and on perusal of the materials on record, it appears that the petitioner lost the bid when fresh bid was sought for after the tie-bid stage. Thereafter, the State respondents proceeded to accept the Additional Performance Security and also the security money which was deposited by the private respondent in January 2025. Formal contract has already been executed by and between the private respondent and the Tender Issuing Authority.

13. At this stage, there is no scope to accommodate the petitioner. No relief can be granted to the petitioner in the instant case.

14. The writ petition fails and is hereby dismissed.

15. The instruction by the Joint Secretary, Government of West Bengal is taken on record.

16. Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all requisite formalities.

(Amrita Sinha, J.)