

14-02-2025
Item No.7
Subrata
Bhattacharyya
AR(C)

IN THE HIGH COURT AT CALCUTTA

Constitutional Writ Jurisdiction
Appellate Side

WPA No.3572 of 2025
M/s ESSGEE Associates

-vs-

The Steel Authority of India & Ors.

Mr. Indranil Roy, adv.
Mr. Biswajit Manna, adv. ...for the petitioner

Mr. L.K. Gupta, sr. adv.
Mr. Suddhasatva Banerjee, adv.
Mr. Chayan Gupta, adv.
Mr. Dwip Raj Basu, adv.
Mr. Uday Sharma, adv. ...for the respondents

1. The petitioner is a registered contractor of SAIL-IISCO Steel Plant, Burnpur, Paschim Medinipur. It participated in various tender processes of the respondent company and was successful in obtaining work orders. The petitioner claims that the works were successfully completed in accordance with the orders issued.
2. The petitioner is also a member of a consortium of contractors. The consortium participated in a tender process but has been suspended for a period of six months by an order dated February 10, 2025 (Annexure P3, p.61), as the petitioner was found to commit offence under clause 6.9 of the SAIL Guidelines on Banning of Business Dealings (2022).
3. The petitioner has approached this Court challenging the order of ban and the action on the part of the respondents in disallowing the

consortium to proceed with its participation in the auction process which is underway. In the auction, the consortium was found eligible in the initial stage, but at the stage of reverse auction, the order of suspension of the petitioner has been relied upon for not permitting the consortium to proceed further.

4. The petitioner alleges mala fide on the part of the respondent authorities. It has been submitted that the order of ban has been issued by an authority which is not competent to do so. Prayer has been made to stay the order of ban and permit the petitioner to participate in the reverse auction process.
5. Learned senior counsel representing the respondent authorities raises an objection with regard to the maintainability of the writ petition at the instance of the petitioner. It has been submitted that the consortium participated in the tender process and that the petitioner does not have any individual right to challenge the order debarring the consortium from participating in the reverse auction process.
6. It has further been submitted on behalf of the respondents that the petitioner individually does not have any right to challenge the debarment of the consortium from proceeding with the reverse auction.
7. As far as ban of the petitioner is concerned, it has been submitted that the same has been issued by the competent authority. There are several complaints against the petitioner alleging non-payment of the statutory dues. According to the respondents, the writ petition is not maintainable.
8. To this, learned advocate for the petitioner

submits that the petitioner is the lead member of the consortium and has been given the power to move the writ petition.

9. The copy of the writ petition does not annex any copy of the power of attorney given in favour of the petitioner authorizing him to approach this Court on behalf of the consortium. There is also no averment in the writ petition with regard to the power given to the petitioner by the other members of the consortium to represent the consortium before the Court of law.
10. Faced with this, learned counsel for the petitioner seeks leave to withdraw the instant writ petition with liberty to file a fresh one with proper particulars.
11. In view of the submission, leave sought for on behalf of the petitioner stands allowed. The writ petition is dismissed as 'withdrawn'.
12. It will be open for the petitioner to approach the competent forum in accordance with law, if so advised, upon proper and better particulars.
13. All parties are to act on the server copy of this order duly downloaded from the official website of this Court.
14. Certified copy of this order, if applied for, shall be made available to the parties.

[Amrita Sinha, J]

