

26.02.2025
Item No.16
gd/ssd

MAT/274/2025
SULEKHA ENTERPRISE AND ANR.
VS
EMPLOYEES STATE INSURANCE CORPORATION
MINISTRY OF LABOUR AND EMPLOYMENT
GOVERNMENT OF INDIA AND ORS.
IA NO: CAN/1/2025

Mr. Suddhasattwa Banerjee,
Mr. Sanjay Saha,
Mr. Ratul Paul
..for the Appellants.

Mr. Rajib Ray.
Mr. Debashis Halder,
Ms. Oishanee Ghosh
..for the Respondent Nos.1 and 2.

Mr. Sarwar Jahan,
Mr. Amanul Islam,
Mr. Sourav Mukherjee,
Ms. Tapati Sarkar,
Mr. Koustav Roy
..for the Respondent Nos.3 and 6.

1. This intra court appeal by the writ petitioners is directed against the order dated 19th February, 2025 in WPA 30721 of 2024.

2. The writ petition was filed challenging a notice inviting tender floated by the U.P. Small Industries Corporation Limited which emerged as a successful tender in a tender invited by the Employees State Insurance Corporation for annual repairing and maintenance of civil and electrical works and special repair works of all the buildings under the control of

Employees State Insurance Corporation, Kolkata, West Bengal and Sikkim Region for a period of one year.

3. The appellants' contention is that the restriction imposed by UPSICL in the bid document restricting the participation only to those bidders who are enlisted with the Corporation is illegal and contrary to the GFR guidelines.

4. It is submitted that in terms of the GFR guidelines all bidders should be permitted to participate in the tender and such restriction is contrary to the terms and conditions of the GFR guidelines.

5. Admittedly, the UPSICL is the authority which had invited the tender and it is for the tender inviting authority to lay down the terms and conditions of the tender so as to ensure that the work which is to be allotted to the successful bidder is performed to its satisfaction.

6. Therefore, the UPSICL had stated that enlistment of the contractor with the Corporation is mandatory. This condition is pursuant to a Rule which has been framed which also stood amended subsequently which specifically states that the contractors enlisted under any class shall be permitted to tender in UPSICL anywhere in Uttar Pradesh in the category of works that they are enlisted. As long as the Rules remains intact, the question of rendering any condition in the notice inviting tender issued by the

UPSICL cannot be termed to be arbitrary by the illegal or illogical or irrational.

7. In any event, it is for the tender inviting authority to stipulate conditions in the tender document and it is not for the court exercising jurisdiction under Article 226 of the Constitution to interpret the terms and conditions of the notice inviting tender and the only exception which has been curbed out by various decisions is that when the tender has been so trailer made so as to favour a particular bidder which is not the case before us.

8. That apart, even at the time of the writ petition was filed it is stated that tender process was completed and it is at the stage of issuing the work order and after the dismissal of the writ petition, the work order has been issued.

9. Thus, for all the above reasons, we find no grounds to interfere with the order impugned.

10. Accordingly, the appeal fails and the same is dismissed.

(T. S. SIVAGNANAM)
CHIEF JUSTICE

(CHAITALI CHATTERJEE (DAS), J.)