

16.05.2025
Sl. No. 40.
Ct.No.39.\
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**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

WPA 6039 of 2025

**Bellal Mondal & Ors.
Vs.
The State of West Bengal & Ors.**

Md. Sarwar Jahan,
Mr. Asraf Mandal,

..for the petitioners

Mr. D. Mukherjee
Ms. Priyanka Jana

...for the State.

Mr. Shahan Shah,
Sk. Abumusa,
Mr. Soumen Barman,
Mr. U.M. Khan

...for respondent no.10

Affidavit of service filed on behalf of the petitioners
is taken on record.

The writ petition has been filed alleging of
arbitrary rejection of the technical bid of the petitioners
in respect of notice inviting e-Tender being
No.009/SGP/15TH C.F.C.(Untied)/2024-25.

The petitioners contend that they participated in
the said bid and have submitted the required documents
as per the notice inviting e-Tender. However, their
technical bids were rejected without citing any reason
and the rejection has been made only on the ground that
they could not complete the Government works within a
stipulated period. The above ground is not a condition

precedent as per the notice inviting e-tender. The petitioners made representation before the respondent no.8, Block Development Officer, Nowda Development Block on 27th February, 2025 alleging of such fact. However, no steps have been taken. Hence, this writ petition.

Md. Sarwar Jahan, learned Advocate for the petitioners submit that arbitrarily the technical bid of the petitioners has been rejected. No ground whatsoever has been informed to the petitioners for such rejection, although the petitioners submitted all the required documents and were qualified for participating in the financial bid. The reason for rejecting the technical bids of the petitioners that they could not complete Government works is baseless, since such circumstance can only ensue after issuance of work order and not prior to it. Representations were made before the appropriate authority alleging of such arbitrary action of the Pradhan, Sarbangapur Gram Panchayat, however, no effective steps have been taken. He seeks for appropriate direction upon the respondent no.8, Block Development Officer, Nowda Development Block to cause enquiry with regard to the allegations raised by way of representations by the petitioners vide their letters dated 27th February, 2025.

Mr. D. Mukherjee, learned Advocate representing the State-respondents submits that respondent no.8,

Block Development Officer, Nowda Development Block has already acted on the complaint of the petitioners and called for the relevant documents to be produced before its office. He files report of the respondent no.8, Block Development Officer, Nowda Development Block dated 24th March, 2025, which is taken on record.

Opposing such prayer of the petitioners, Mr. Shahan Shah, learned Advocate appearing for respondent no.10, Pradhan, Sarbangapur Gram Panchayat submits that the matter may be relegated to respondent no.8, Block Development Officer, Nowda Development Block for causing enquiry.

Admittedly, the petitioners participated in the notice inviting e-Tender being No.009/SGP/15TH C.F.C. (Untied)/2024-25. The resolution annexed to the writ petition at Pages 59 to 72 shows that the technical bid of the petitioners were rejected on the ground that they are unable to complete the Government work within a time frame. Excepting the above no other cogent reasons could be placed before this Court by the learned Advocate representing the respondent no.10, Pradhan, Sarbangapur Gram Panchayat of such rejection. Copy of the resolution of the Sarbangapur Gram Panchayat annexed to the writ petition also shows that Nirman Sahayak and Secretary have raised objection in the meeting regarding such rejection. By letter dated 27th February, 2025 the petitioners also informed the Nowda

Block Development Officer that the Nirman Sahayak and the Secretary during meeting has opined that the technical requirement of the petitioners are correct and they are qualified for financial bids which is also appearing in the resolution annexed to the writ petition. Thus, primarily it appears that the rejection of the technical bids is short of reasonableness. Such being the position, the allegations raised by the petitioners in their representations dated 27th February, 2025 requires to be enquired into by the appropriate authorities.

In ***Tata Cellular -versus- Union of India***, reported in **(1994) 6 SCC 651**, the Hon'ble Supreme Court enunciated the following principles for judicial review in order to prevent arbitrariness or favouritism in exercise of contractual powers by Government bodies :-

"94. The principles deducible from the above are :

(1) The modern trend points to judicial restraint in administrative action.

(2) The court does not sit as a court of appeal but merely reviews the manner in which the decision was made.

(3) The court does not have the expertise to correct the administrative decision. If a review of the administrative decision is permitted it will be substituting its own decision, without the necessary expertise which itself may be fallible.

(4) The terms of the invitation to tender cannot be open to judicial scrutiny because the invitation to tender is in the realm of contract.

Normally speaking, the decision to accept the tender or award the contract is reached by process of negotiations through several tiers. More often than not, such decisions are made qualitatively by experts.

(5) The Government must have freedom of contract. In other words, a fair play in the joints is a necessary concomitant for an administrative body functioning in an administrative sphere or quasi-administrative sphere. However, the decision must not only be tested by the application of Wednesbury principle of reasonableness

(including its other facts pointed out above) but must be free from arbitrariness not affected by bias or actuated by mala fides.

(6) Quashing decisions may impose heavy administrative burden on the administration and lead to increased and unbudgeted expenditure.

Based on these principles we will examine the facts of this case since they commend to us as the correct principles.”

Bearing in mind the aforesaid principles, as it is found that the rejection of the technical bids of the petitioners by Gram Panchayat appears to be short of reasonableness, such action has to be examined. Judicial power of review is exercised to rein in any unbridled executive functioning and examine the decision making process. Where the selection or rejection is arbitrary, certainly the Court can interfere. [See Tata Cellular (supra)].

In view of the above, the respondent no.8, Block Development Officer, Nowda Development Block, Sarbangapur Gram Panchayat is directed to cause enquiry in respect of the representation dated 27th February, 2025 after giving opportunity of hearing to all the parties including the petitioners and parties are giving liberty to produce their respective documents before the authority concerned. The enquiry should be concluded within a period of 2 months from date of communication of the order.

Petitioners are directed to communicate this order to the respondent no.8, Block Development Officer, Nowda Development Block for compliance.

Since no affidavits have been called for, the allegation made in the writ petition is deemed to be not admitted.

With the aforesaid directions, the writ petition being **WPA 6039 of 2025** stands disposed of.

All connected applications, if any, stand disposed of.

There will be, however, no order as to costs.

Interim order, if any, stands vacated.

All concerned parties shall act in terms of the copy of the order duly downloaded from the official website of this Court.

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

(Bivas Pattanayak, J.)