

08.04.2025
Item No.53
gd/ssd

MAT/479/2025
NATIONAL FEDERATION OF FARMERS'
PROCUREMENT, PROCESSING AND RETAILING
COOPERATIVES OF INDIA LIMITED (NACOF) AND
ANR.
VS
STATE OF WEST BENGAL AND ORS.
IA NO: CAN/1/2025

Mr. Amales Ray,
Ms. Mousumi Bhowal,
Mr. Aman Gupta,
Mr. Ishan Bhattacharya
..for the Appellants.

Ms. Jhuma Chakraborty,
Ms. Rupsha Chakraborty
..for the State.

1. This intra court appeal by the writ petitioners is directed against the order dated 27th March, 2025 in WPA 6551 of 2025.

2. The challenge to the condition in a tender notification issued by the respondent was unsuccessful at the instance of the appellant/writ petitioners.

3. Aggrieved by such order, the appellants are before this court challenging the order passed by the learned Single Bench.

4. We have elaborately heard the learned advocates for either of the parties.

5. The respondent/department issued notice inviting e-tender for supply of certain material for different ICDS on item rate basis.

6. The appellant/society appears to have participated in the tender for supply of kitchen and utensils and items and their technical bid was rejected on the ground that they did not comply with the condition pertaining to credential certificate.

7. The learned senior advocate appearing for the appellants would vehemently contend that the reason assigned for rejecting the technical bid is absolutely flawed since the respondents have stated that a bank debit advice alone has been submitted as credential certificate whereas what was produced by the appellant was a certificate issued by the District Magistrate debiting the bank account of the cook/mid day meal programme in the relevant district and this shows that amount was debited and paid to the appellant/society and this was ignored.

8. Further, it is submitted that in respect of another tenderer, Radha Krishna Traders the same debit certificate was considered and the concerned person's technical bid has been approved and it has moved to the financial bid stage.

9. Therefore, it is further submitted by the learned senior advocate for the appellants that the private respondent has produced a certificate of the Block Development Officer of Deshapran Development Block which does not contain any details whereas the certificate produced by the appellant/society issued by

the District Magistrate has been ignored and the learned Single Judge ought to have interfered with the matter and set aside the decision taken by the authorities and should have directed the technical bid of the appellants to be accepted.

10. We have elaborately heard the learned advocate for the respondents on the above submission.

11. Firstly, we need to note that the tender conditions are not subject to review by a constitution court unless it is shown that the tender conditions have been so drafted to promote a curtail or to favour individual or a group of individuals.

12. This appears to be not the case of the appellants in this appeal.

13. Therefore, we have to examine the relevant tender condition to find out as to whether the document produced by the appellants would qualify as a certificate credential as mentioned in the notice inviting tender.

14. As pointed out by the Hon'ble Supreme Court in several decisions it is for the tender inviting authority to fix the terms and conditions of the tender. Equally, it is well settled that a person who had participated in the tender cannot subsequently turn around and challenge the tender conditions as being arbitrary.

15. In the instant case Clause B of the notice inviting tender relates to credential certificate. It states credential certificate shall be in the form of job done/completion of supply of similar kind of works in a single order (supply of basic equipment, furniture and utensils) in a single year for last five financial years including this financial year to any Government Offices/Government Undertakings only.

16. Therefore, it is not for the court to incorporate words or terms in the conditions stipulated in the notice inviting tender.

17. The appellants having participated in the tender process are bound to comply with the conditions contained in the tender notification.

18. Admittedly, the proceedings of the District Magistrate produced by the appellants does not qualify the condition stipulated in Clause B of the notice inviting tender.

19. So far as the private respondent is concerned on the appellant/company, apart from producing the bank debit statement, he has also produced the certificate from the Block Development Officer of the concerned Development Block.

20. Though the certificate may not contain the proceedings number etc., it has mentioned about that the private respondent was engaged as utensils supplier for a particular block and it need to work

satisfactorily and his total transaction for the concerned year was also mentioned.

21. Apart from that if at all the tender inviting authority wants any clarification that can always be obtained from the Block Development Officer.

22. However, no such need arises in the instant case since only a credential certificate is required which should be in the form of job done or completion of supply of similar kind of works in a single year for last five financial years including this financial year to any Government Offices/Government Undertakings only.

23. The appellants having not been able to satisfy the condition, their technical bids were rightly rejected and we find no grounds to interfere with the order of the learned Single Bench.

24. Accordingly, the matter is dismissed.

(T. S. SIVAGNANAM)
CHIEF JUSTICE

(CHAITALI CHATTERJEE (DAS), J.)