

12.
01-07-2025
(Ct. no.14)
debajyoti

**IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
APPELLATE SIDE**

WPA 12130 of 2025

**Bora Tantubay Samabay Samity Ltd.
Vs.
Union of India & Ors.**

Mr. Amritam Mandal,
Mr. Subhradeep Chakraborty,
Mr. Nayan Choudhuri
... For the Petitioner.

Mr. Anil Kumar Gupta,
Mr. Atanu Basu
... For the Respondents.

1. The petitioner contends that the authority has fixed the terms and conditions in a tailor-made manner to keep the MSMEs out of the tender process.

2. The learned counsel for the railways submits that the subject tender is open for participation by the Micro, Small and Medium Enterprises. All benefits under the MSMED Act are available to the MSMEs including exemption of depositing the earnest money deposit and the purchase preference of 25% tender quantity to the MSMEs lying within the L1+15% price band. 25 bidders have participated in the tender process including several MSMEs.

3. The allegation of the petitioner does not appear to be proper in view of the instruction forwarded by the Deputy Chief Materials Manager/E.

4. Learned counsel for the petitioner submits that the instructions by the railways are not correct.

5. It is settled law that it is for the authority to fix up the terms and conditions of the tender and a bidder hardly has a right to make suggestions for the purpose of fixing up the terms and conditions.

6. As the authority has denied the contention of the petitioner and has come up with a definite stand with regard to participation of MSMEs in the tender process which in turn is disputed by the petitioner, accordingly, the disputed question of facts cannot be adjudicated in the writ proceeding.

7. In view of the above, no relief can be granted to the petitioner in the instant case. The writ petition fails and is hereby dismissed.

8. All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

9. Urgent photostat certified copies of this order, if applied for, be supplied to the parties on compliance of necessary formalities.

(Amrita Sinha, J.)