

02
17.07.2025
Ct. No. 11
Jayanta

MAT 842 of 2025
in
IA No. CAN 1 of 2025
in
IA No. CAN 2 of 2025

Banshidhar Majhi
Vs.
State of West Bengal & Ors.

Mr. Bikash Ranjan Bhattacharyya, Sr. Adv.
Mr. Rudranil De
Mr. Soumo Charan

.... For the Appellant.

Mr. Sk. Md. Galib. Sr. Govt. Adv.
Mr. Siddique Malik

.... For the State.

Mr. Debopam Roy
Mr. Sarangam Chakraborty
Mrs. Smita Saha

.... For the Added Respondent No. 8.

Affidavit-of-service, as filed, be kept on record.

The present appeal has been preferred challenging an order dated 19th May, 2025 passed by the learned Single Judge in the writ petition being, WPA 10982 of 2025.

Records reveal that a notice inviting tender (in short NIT) was issued on 11th February, 2025 for providing cleaning & housekeeping services by the Principal, Deben Mahata Government Medical College & Hospital. In clause 26.4 of the NIT it was provided that '*in case of tie, Tenderer will be selected by draw of lots*'. Subsequent thereto, a corrigendum was issued on 28th February, 2025 amending clause 26.4 and incorporating that the

guidelines mentioned in the memo dated 7th June, 2022 will be followed for acceptance of tender. In the said tender process, 10 bidders quoted the same price and as such there was a tie. In such situation, the Tender Committee (hereinafter referred to as TC) held a meeting with the authorised representatives of the qualified L1 bidder, to resolve upon the bid on 24th March, 2025 and again on 26th March, 2025. Thereafter, the bid of the private respondent, namely, CFS Management Private Limited, Kolkata (hereinafter referred to as CFS) was accepted and the contract was awarded for a period of one year with effect from 1st May, 2025 to 30th April, 2026. Challenging such action, the appellant herein, namely, Banshidhar Majhi (hereinafter referred to as Banshidhar) preferred the writ petition which was dismissed by the order impugned in the present appeal.

Drawing our attention to the contents of the memo dated 7th June, 2022, Mr. Bhattacharyya, learned senior advocate, assisted by Mr. De, learned advocate, submits that the TC did not follow the procedure as laid down in the memo dated 7th June, 2022 and considering the representations submitted by the student representatives and staff representatives, it adopted the decision to award the contract to CFS. Such procedure as adopted was alien to the provisions of the NIT and consideration of a representation of student or staff representative was

admittedly not a condition in the NIT. As such, the authorities have awarded the contract to CFS on the rudiments of extraneous consideration.

Mr. Bhattacharyya further submits that in the memo dated 7th June, 2022 it has been categorically laid down that in case of a tie bid it was mandatory on the part TC to follow situation III which, *inter alia*, provides that *‘keeping the discovered L1 rate as ceiling, sealed bids may be invited from all the L1 bidders and out of those the lowest one may be selected’*. The said procedure was not followed and CFS has been favoured which clearly establishes arbitrariness and *mala fide*. Such arguments, as advanced, were glossed over by the learned Single Judge and no finding was returned on the same.

Mr. Galib, learned Senior Government Advocate appearing for the respondent nos. 1 to 7, however, denies and disputes the contention of Mr. Bhattacharyya and submits that the decision to award contract to CFS was taken upon due deliberation and discussion in meetings which were attended by the authorised representatives of the qualified L1 bidders. It was resolved, *inter alia*, that *‘as the discovered L1 rate was already the lowest, the norm of further invitation of sealed bids from all the L1 bidders was found to be not applicable in the current scenario’*. Such decision was not objected to by the authorised representatives of the qualified L1 bidders.

Referring to clause 7 of the resolution dated 24th March, 2025, he submits that all the L1 bidders proposed to draw reference to rule A.(II)(c) where it has been stated that the number of personnel supplied in a single contract during the last 3 years shall be considered for allocation of the work. Indisputably, the number of maximum personnel supplied by Banshidhar was 235 whereas of CFS it was 529. It is thus not a case that the authorities have favoured CFS. Reliance has been placed upon the judgments delivered in the cases of *Principal Chief Conservator of Forest & Ors. vs.- Suresh Mathew & Ors.*, reported in 2025 SCC OnLine SC 933 and *N. G. Projects Limited – vs.- Vinod Kumar Jain & Ors.*, reported in (2022) 6 SCC 127.

Mr. Roy, learned advocate appearing for CFS also denies the contention of Mr. Bhattacharyya and submits the appellant approached the Court after the work order was issued in favour of CFS and in the meetings of the TC no objection was also raised by the appellant as regards the procedure as followed.

He further submits that the contents of the memo dated 7th June, 2022 would reveal that man power was a relevant consideration for award of the contract. Admittedly such man power pertaining to the appellant was lesser than that of the CFS and in the said

conspectus, the learned Single Judge rightly did not interfere.

In reply, Mr. Bhattacharyya submits that the manpower component is not a clause of the NIT and thus the TC had proceeded beyond the purview of the terms and conditions incorporated in the TC.

We have heard the learned advocates appearing for the respective parties and considered the materials on record.

The conditions, as incorporated in the NIT, need to be considered together and not in isolation. A particular clause cannot be taken up and highlighted. Considering the clauses in the NIT and the contents of the memo dated 7th June, 2022, the learned Single Judge rightly arrived at a finding that *‘keeping in view its operational and administrative issues in the best interest of the public service, the tender committee decided to award the contract in favour of the bidder who provided the largest number of personnel in a single contract during the last three years’*. It is also not a case that the final decision was taken by the TC in perfunctory manner. The issue was deliberated and discussed at length by the TC in consecutive meetings held in presence of the authorised representatives of the qualified L1 bidder. The appellant had failed to establish any arbitrariness or

unreasonableness in the tender process. No *mala fide* can also be attributed to the acts of the TC.

For the reasons as discussed above, no interference is called for in the present appeal.

Accordingly, the appeal and the stay application are dismissed.

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

Urgent certified photocopy of this order, if applied for, be supplied as expeditiously as possible.

(Reetobroto Kumar Mitra, J.) (Tapabrata Chakraborty, J.)