

24.10.2025
Sl. No.9(DL)
Ct. No.42
srm

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

W.P.A. No. 13508 of 2025

Khokan Ghosh

Versus

The State of West Bengal & Ors.

Mr. Satrajit Sinha Roy,
Mr. Supriyo Ghosh,
Ms. Susmita Adhikary

...for the Petitioner.

Mr. Tarun Jyoti Tewari,
Mr. Amrit Sinha,
Mr. Aniruddha Tewari

...for the State.

1. Report in the form of affidavit filed by respondent No.7 is taken on record. Copy served.
2. Exception to the aforesaid report filed by the petitioner is also taken on record.
3. By the present writ petition, the petitioner seeks for setting aside of the work order issued in favour of respondent No.8 pertaining to notice inviting e-tender No.WB/NZP/KLG/FARID/NIET/15/24-25 under Memo No.518/FARID/2024 dated 7th March, 2025.
4. The petitioner contends that he participated in the aforesaid notice inviting e-tender. The petitioner was selected along with five others in the technical bid. Thereafter, in the financial bid the petitioner and respondent No.8 were declared as L1 bidders. The respondent No.8 did not have the technical qualification as required under the NIT, but he was

allowed to participate in the table bid and arbitrarily work orders has been issued to the respondent No.8 in contravention of the clauses of the aforesaid NIT. Hence, this writ petition.

5. Mr. Satrajit Sinha Roy, learned Advocate for the petitioner submits that the respondent No.8 as per NIT was supposed to submit documents showing that he has completed at least one contract of similar nature of work at least 40% value of the proposed contract within last three years. The documents annexed to the writ petition from pages 60 to 83 would not show that the respondent No.8 had not completed any similar nature of work. Therefore, the acceptance of the technical bid of respondent No.8 is palpably illegal and bad in law since it is made in contravention of the aforesaid NIT. The authority concerned ought not to have accepted the technical bid of respondent No.8 and allowed him for participating in the financial bid. The duty of the court is to consider the question of legality of the action of the authority concerned and find out whether there is any breach of the rules of natural justice and abuse of powers conferred upon the authority. To buttress his contention, he relies on following decisions of the Hon'ble Supreme Court (i) ***Tata Cellular versus Union of India*** reported in ***(1994) 6 SCC 651***; (ii) ***Jagdish Mandal versus State of Orissa & Ors.*** reported in ***(2007) 14 SCC 517***. He further submits that the writ is maintainable when

there is an arbitrary or unreasonable action on the part of the authority concerned and such jurisdiction can be exercised after the contract has come into existence. In support of his contention, he relies on the decision of the Hon'ble Supreme Court in ***Subodh Kumar Singh Rathour versus Chief Executive Officer & Ors.*** reported in ***2024 SCC OnLine SC 1682***. Thus, the work order issued in favour of respondent No.8 pertaining to the aforesaid NIT is arbitrary and should be set aside.

6. In reply to the aforesaid contention, Mr. Tarun Jyoti Tewari, learned Advocate for the respondent No.7, Pradhan, Faridpur Gram Panchayat submits that the original documents as relied upon by the bidders were uploaded in the official website of the authority concerned on 28th March, 2025. Therefore, the petitioner was well aware of the documents furnished by the respondent No.8 on such date but he chose not to challenge the same immediate thereafter. Clause 9 of the NIT clearly stipulates that the bidder can raise objection or complaint regarding non-eligibility in technical bid evaluation within a period of 48 hours from the publication time i.e. uploading time in web portal. Such opportunity has not been availed by the petitioner. The petitioner was notified regarding the table bid. Although he appeared before the authority concerned but he refused to participate in the table bid. In such circumstances, the authority concerned

chose respondent No.8 as the L1 bidder. The petitioner has filed the writ petition in the month of June, 2025. There is no averment in the writ petition regarding the delay in raising the issues. He informs the Court that the respondent No.8 in favour of whom work order has been issued has already completed 40% of the work allotted to him. The petitioner has also suppressed the material facts in not disclosing the notice sent to him for participating in the table bid. In light of his aforesaid submissions, he prayed for dismissal of the writ petition.

7. Upon hearing the learned Advocates for the respective parties, the only issue which falls for consideration before this Court as to whether the work order issued in favour of respondent No.8 by the authority concerned is legally sustainable or not.
8. Admittedly, the petitioner and the respondent No.8 and others participated in the notice inviting e-tender No. WB/NZP/KLG/FARID/NIET/15/24-25 under Memo No.518/FARID/2024 dated 7th March, 2025 and thereafter work order has been issued in favour of the respondent No.8 as L1 bidder. The petitioner has challenged the issuance of work order in favour of the respondent No.8 on the sole ground that the respondent No.8 has not successfully completed at least one contract of similar nature of work at least 40% value of the proposed contract within the last three years as required under the NIT. The original

documents of the bidders were uploaded on 28th March, 2025 meaning thereby that the petitioner had the knowledge of the original documents which were relied upon by the respondent No.8 on such date. The technical bid of the petitioner as well as respondent No.8 and four others were accepted by the authority concerned on 29th March, 2025. The petitioner did not challenge the acceptance of such technical bids subsequent thereto.

9. Clause 9 of the NIT clearly stipulates in case if there be any objection/complaint regarding non-eligibility in technical bid evaluation, only intending bidders or authorized persons on behalf of the bidders may lodge objection/complaint along with specific authentic documents in support of their objection/complaint as a proof to the Notice Inviting Authority or Chairman, Tender Evaluation Committee within 48 hours from the publication time of the technical bid evaluation and beyond that time schedule no objection/complaint will be entertained.
10. Undisputedly, the petitioner did not lodge any objection or complaint regarding the acceptance of technical bid of the respondent No.8. There is also no reason assigned in the writ petition of not availing of such opportunity as provided in clause 9 of the NIT. Thus, at the stage of technical bid evaluation, the petitioner did not have any objection/complaint against such evaluation by the authority concerned. It

appears that only when the issuance of work order did not find favour with the petitioner, he has filed the writ petition at a belated stage after the work order was issued to the respondent No.8.

11. The decision in *Tata Cellular* as well as the decision in *Jagdish Mandal* (supra) which has also considered the decision in *Tata Cellular* clearly lays down that the Court does not sit in appeal but merely reviews the manner in which the decision was made.
12. In view of above decision, this Court finds that there is no such arbitrariness in the action of the authority concerned in issuing work order in favour of respondent no.8. It is informed by the learned Advocate for the respondent no.7 that already respondent no.8 has completed 40% of the work allotted to him.
13. The decision of Hon'ble Supreme Court in *Subodh Kumar Singh Rathour* (supra) does not apply in this case since no arbitrariness could be found from the action of the authority concerned.
14. Thus, in light of the above, since the petitioner, who had the opportunity as per the NIT to lodge a objection/complaint during the technical bid evaluation of respondent no.8, did not avail the same, the decision of the authority cannot be interdicted in the writ petition.
15. Accordingly, in light of the above discussion, the writ petition being **WPA 13508 of 2025** stands dismissed.

16. Interim order, if any, stands vacated.
17. All connected applications, if any, stand disposed of.
18. There shall be no order as to costs.
19. All concerned parties shall act in terms of the copy of the order duly downloaded from the official website of this Court.
20. Urgent Photostat certified copy of the order, if applied for, be given to the parties on compliance of all necessary legal formalities.

(Bivas Pattanayak, J.)