

**IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble Justice Debangsu Basak

And

The Hon'ble Justice Md. Shabbar Rashidi

MAT/1573/2025

With

IA NO: CAN/1/2025

SRI NIRUPAM CHANDRA DAS

VS

THE STATE OF WEST BENGAL AND ORS.

For the Appellant

*:Mr. Anindya Halder, Advocate
Sk. Zubair Ahmed, Advocate*

*For the Respondent No.5 :Mr. Saptangsu Basu, Sr. Advocate
Mr. Swapan Kr. Pal, Advocate*

For the State

*:Mr. Sirsanya Bandopadhyay, Ld. Sr. standing Counsel
Mr. Ritesh Kr. Ganguly, Advocate*

Heard & Judgment on: September 24, 2025

Md. Shabbar Rashidi, J.

1. Appeal is directed against an order dated August 13, 2025 passed in WPA 25110 of 2024.
2. By the impugned order the writ petition filed on behalf of the present appellant was dismissed.
3. It is submitted on behalf of the learned advocate for the appellant that private respondent was wrongly awarded the tender. It was awarded in

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contravention of the terms and conditions of the tender documents in respect of tied bid.

4. Learned advocate for the private respondent submitted that the tender was awarded to him in complete compliance with the terms and conditions of the tender documents. Learned advocate for the petitioner refers to several documents and decisions taken by the Tender Evaluation Committee.
5. The appellant and the private respondent participated in the tender for supply of manpower published by the Member Secretary DH and FWS, Chief Medical Officer of Health, Paschim Medinipur.
6. The terms and conditions of the deed in case of a tied bid were published as follows:-

"Situation III: In case of tie bid

In addition to what has been stated in Situation I and II above, the following procedure should be adopted when there is a tie among the L1 Bidders:

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.

If none of the L1 bidders is ready to offer further reduced rates:

A. For items divisible in nature -

i. The work may be distributed equally among the consenting L1 bidders.

ii. If none of the L1 bidders is ready to accept reduced quantity, the bidder with higher credential based on the following parameters, may be selected among L1 bidders in the following manner :

a. In case of supply of goods, last three years average turnover of the bidder shall be considered.

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b. In case of execution of work / supply of service, value of single work/service of similar nature completed during last 3 years shall be considered.

c. In case of supply of man power, number of personnel supplied in a single contract during the last 3 years shall be considered."

B. For items not divisible in nature;

If none of the L1 bidder is ready to offer further reduction of rates, the bidder with higher credential based on parameters, as mentioned in A(ii) above may be selected among L1 bidders."

7. After evaluation of the bids, the two bids submitted on behalf of the appellant as well as the private respondent were found to be in a tie.
8. At the time of hearing, learned advocate for the appellant submits that, authorities did not comply with the conditions to the effect that, keeping the discovered L1 rate as ceiling, sealed bids may be invited from L1 bidders and out of those the lowest one may be selected. It has been submitted on behalf of the private respondent that the sealed bids were opened and were found to be at the lowest rates, as such there was no scope of further bidding between the L1 bidders as contained in the aforesaid conditions of the bid.
9. The authorities thereafter proceeded to award tender in favour of the private respondent on the basis of a better credential. The terms and conditions of the bid provided for such awarding of the bid as contained in condition (A) of the terms and conditions of the bid with respect to "Situations III in the case of tie bid".

10. The appellant challenged the award of tender to the private opposite party by filing the writ petition being WPA 25110 of 2024 seeking the following reliefs :-

"(a) Grant leave to the petitioners to move this application without notice in terms of Rule 26 of the Rules of the High Court at Calcutta relating to application under Article 226 of the Constitution of India;

(b) A writ of and/or in the nature of Mandamus to issue commanding the authorities more particularly the respondent nos. 3 and 4 to consider the demand letter dated August 24, 2024 seeking for the work order of the Tender being Memo No. DH & FWS/2023/7724 dated November 28, 2023 for engagement of Clerical Assistant and Cleaning Staffs 2nd Call for the 3rd (Third) term starting from October 2024 till the end of January 2025 and in a like manner for the further periods;

(c) A writ of and/or in the nature of Mandamus to issue commanding the respondent authorities concerned, more particularly the respondent nos. 3 and 4 to hand over the work order in terms of Tender being Memo No. DH & FWS/2023/7724 dated November 28, 2023 for engagement of Clerical Assistant and Cleaning Staffs 2nd Call for the 3rd (Third) term starting from October 2024 till the end of January 2025 and in a like manner for the further periods;

(d) A writ of and/or in the nature of Mandamus to issue commanding the respondent authorities concerned, more particularly the respondent nos. 3 and 4 to issue stop work notice in favour of the private respondent nos. 5 & 6 in terms of the Tender being Memo No. DH & FWS/2023/7724 dated November 28, 2023 for engagement of Clerical Assistant and Cleaning Staffs 2nd Call for the 3rd (Third) term starting from October 2024 till the end of January 2025 and in a like manner for the further periods;

(e) A Writ of and/or order and/or direction in the nature of Certiorari do issue calling upon the respondents and/or each of them, their

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servants, agents or assigns to certify and transmit to this Hon'ble Court all the records relating to the instant case;

(f) Rule NISI in terms of prayers (a) to (e) above;

(g) An interim order may be passed thereby directing the respondent authorities concerned, more particularly the respondent nos. 3 and 4 to issue stop work notice infavour of the private respondent nos. 5 & 6 in terms of the Tender being Memo No. FWS/2023/7724 dated November 28, 2023 for engagement of Clerical Assistant and Cleaning Staffs 2nd Call for the 3rd (Third) term starting from October 2024 till the end of January 2025 and in a like manner for the further periods;

(h) An interim order may be passed thereby directing the respondent authorities to take effective and/or necessary and/or immediate steps more particularly the respondent nos. 3 and 4 to hand over the work order in terms of Tender being Memo No. DH & FWS/2023/7724 dated November 28, 2023 for engagement of Clerical Assistant and Cleaning Staffs 2nd Call for the 3rd (Third) term starting from October 2024 till the end of January 2025 and in a like manner, as per the meeting held at the office of the respondent no. 4;

(i) An interim order may be passed thereby directing the respondent authorities to take effective and/or necessary and/or immediate steps more particularly the respondent no. 3 & 4 restraining them to extend and/or issue any further work order in terms of Tender being Memo No. DH & FWS/2023/7724 dated November 28, 2023 for engagement of Clerical Assistant and Cleaning Staffs 2nd Call to any person for the 3rd (Third) term starting from October 2024 till the end of January 2025 and in a like manner for the further periods;

(j) Ad-interim order in terms of prayer (g) to (i);

(k) Costs of and incidental to this application be paid by the respondents;

(l) Such further and/or other order or orders be passed and/or direction or directions be given as to this Hon'ble Court may deem fit and proper."

11. Learned advocate appearing for the appellant at the time of hearing of the instant appeal did not raise any objection with regard to the better credential lying in favour of the private respondent. The materials on record also show that after the bid was found to be tied between the appellant and the private opposite party, the financial evaluation was made. It was specifically noted in the meeting that none of the bidders agreed to work in divisible nature so private respondent being the highest supply manpower was awarded bid, the contract.
12. The appellant proceeded on the basis of the declared terms and conditions. The respondent authorities did not deviate from the published terms and conditions in order to break the tie.
13. In such circumstances, we find no ground to interfere with the impugned judgment and order.
14. Accordingly, MAT/1573/2025 along with the connected application are **dismissed** without any order as to costs.

(Md. Shabbar Rashidi, J.)

15. I agree

(Debangsu Basak, J.)