

28-10-2025
Item No.5
Subrata
Bhattacharyya
AR(C)

IN THE HIGH COURT AT CALCUTTA

Constitutional Writ Jurisdiction
Appellate Side

WPA No.24195 of 2025
M/s Mahadev Enclave Private Limited & Anr.
-vs-
The State of West Bengal & Ors.

Mr. Debashis Sarkar, adv. ...for the petitioners

Mr. Md. Mansoor Alam, adv.
Mr. Jaladhi Das, adv. ...for the State

Mr. Joydip Kar, sr. adv.
Mr. Sanjay Saha, adv.
Mr. Dhruv Chadda, adv....for respondents no.2 & 3

1. The petitioners, as consortium, participated in a tender process floated by the West Bengal Mineral Development and Trading Corporation Limited for selection of Check Point Operator for setting up operating check points vide EOI No.MDTC/SAND/ 002(VIII)/1607 dated August 5, 2025.
2. The bid of the petitioners stood rejected at the technical evaluation stage for the reason of submission of incomplete documents. The rejection was communicated to the petitioners vide communicating letter dated September 18, 2025. The selection letter clearly mentioned that in case of any clarifications or feedback, the tender inviting authority might be contacted.
3. A communication from the end of the petitioners seeking clarification with regard to the specific documents which were found to be deficient was

made on the same date, i.e. on September 18, 2025. There was no response from the concerned authority.

4. The instant writ petition has been filed on October 14, 2025 with the leave of the vacation Bench. The matter could not be taken up by the vacation Bench and the same is appearing in the list today.
5. It has been submitted by learned counsel for the petitioners that the eligibility of the successful bidders has been challenged by a separate entity of filing a writ petition being WPA No.23562 of 2025 (Sailaja Commercial Construction Private Limited –vs- The State of West Bengal & Ors.).
6. A coordinate Bench of this court heard the said matter on September 26, 2025 and directed the parties to file respective reports by way of affidavit on the returnable date. The writ petition has been made returnable in the combined monthly list of November 2025.
7. The petitioners refer to clauses 7.2.4 and 7.2.5 of the tender document in support of the submission that the evaluation committee, at the time of evaluation of the techno commercial bid, could have called for a clarification from the bidder and could have sought for the documents which were wanting so that the petitioners could have met the eligibility criteria. The committee did not seek any clarification from the petitioners for clarification of the ambiguity and uncertainties in the bid.
8. The petitioners have, inter alia, prayed for a direction upon the tender-issuing authority for refraining from opening the financial bid of other bidders in exclusion of the petitioners and also

from proceeding further with the process of final selection of Check Point Operator.

9. Learned senior counsel representing the West Bengal Mineral Development and Trading Corporation Limited being the tender inviting and issuing authority submits, upon instructions, that work order has already been issued in favour of the successful bidder on October 8, 2025.
10. The bid of the petitioners stood rejected as the petitioners failed to submit the power of attorney, format which was specified in Annexure 1 of the tender document. There was a requirement of filing of power of attorney by each member of the consortium.
11. It has also been submitted on behalf of the Corporation that as the petitioners failed to submit the necessary document, as per requirement, accordingly, the petitioners were considered as ineligible to proceed further in the tender process. Prayer has been made to dismiss the writ petition.
12. I have heard the respective submissions advanced on behalf of the parties and have perused the materials placed before this court.
13. Clause 7.2.4 of the tender document referred to by the learned counsel for the petitioners specifies that the evaluation committee may, at its discretion, ask the bidder for clarification on their techno commercial bid.
14. Clause 7.2.5 thereof stipulates that the committee may seek clarification from the bidders to clarify ambiguities and uncertainties in the bid.
15. Submission of the petitioners that the authority ought to have sought for clarification does not, in my opinion, appear to be proper. Seeking for a

clarification was the absolute discretion of the authority.

16. The document which was not submitted by the petitioners was required to be mandatorily submitted and the same hardly requires a clarification. In the absence of the requisite documents, the petitioners as consortium become ineligible to participate in the tender.
17. It has been brought to the notice of the court that work order has already been issued in favour of the successful bidder way back on October 8, 2025. At such a belated stage, there is hardly any scope to grant opportunity to the petitioners to cure the defect in submission of the bid documents.
18. It does not appear that there has been palpable error, arbitrary or illegal act on the part of the authority requiring interference by the writ court. None of the constitutional or statutory right of the petitioners appears to have infringed by the authority.
19. In light of the above, the court is not inclined to exercise its discretion in this matter.
20. The writ petition thus fails and is hereby dismissed.
21. Affidavit of service filed in court be taken on record.
22. All parties are to act on the server copy of this order duly downloaded from the official website of this court.
23. Certified copy of this order, if applied for, shall be made available to the parties.

[Amrita Sinha, J]

