

**Calcutta High Court
In the Circuit Bench at Jalpaiguri
Appellate Side**

Present:

**The Hon'ble Justice Tapabrata Chakraborty
&
The Hon'ble Justice Biswaroop Chowdhury**

**MAT 103 of 2025
with
IA No.CAN 1 of 2025**

**M/S Tapas Kumar Hazra
-Versus-
The State of West Bengal & Ors.**

For the Appellant : Mr. Jagriti Mishra
Ms. Ananya Bhattacharya
Ms. Mrinmayee Das

For the State : Mr. Joyjit Choudhury, Ld. A.A.G.
Mr. Nabankur Paul

Hearing is concluded on : 19th December, 2025.

Judgment On : 19th December, 2025.

Tapabrata Chakraborty, J.

1. The present appeal has been preferred challenging an order dated 24th November, 2025 passed by the learned single Judge in the writ petition being WPA 2031 of 2025. The said writ petition was preferred by the appellant primarily praying for the following relief :

‘a. Issue a writ of Mandamus or any other appropriate writ, order or direction, commanding the Respondents to forthwith set aside and quash the Technical Bid Evaluation dated 02.09.2025, whereby the Technical Bid of the Petitioner was rejected in Tender No.WBPWD/SE/NBCC-II/NIT-11/2025-26 (3rd Call), Tender ID: 2025_PWD_881116_1, as the same has been passed in blatant violation of Rule 28 of the West Bengal Financial Rules, 1977, which mandates that all tenders shall be evaluated strictly in accordance with the prescribed criteria in a fair, transparent, and non-discriminatory manner, and any rejection dehors the said Rule is ex facie arbitrary, unreasonable, and unsustainable in law’.

2. Upon contested hearing the writ petition was disposed of by the order impugned. The operative part of the said order runs as follows :

*‘Having regard to the nature of the controversy, and in view of the fact that the bid evaluation committee itself on an earlier occasion consulted the Heritage Commission to evaluate the technical bid of the petitioner, I am of the view that the Public Works Department of the State should seek a specific opinion as to whether the earlier work executed by the petitioner, as mentioned on page 137 of the writ petition, can be termed as **“a satisfactory completion of conservation / restoration work comprising of retrofitting / rehabilitation items under WBHC (West Bengal Heritage Commission)”** so as to allow him to participate in the tender in question. Upon receipt of such opinion, the committee shall reassess the petitioner’s technical bid and take a final decision. This exercise shall be completed within a period of three weeks from the date of communication of this order.*

The decision of the committee shall be communicated to the petitioner immediately.

The interim order granted earlier shall continue to operate until a decision is rendered by the bid evaluation committee of the Public Works Department, West Bengal, and a communication thereof is made to the petitioner. Thereafter, the tender process shall be conducted in accordance with law.

*Accordingly, **WPA 2031 of 2025** along with **CAN 1 of 2025** stands disposed of.'*

3. Mr. Mishra, learned advocate appearing for the writ petitioner/appellant submits that a Notice Inviting Tender (hereinafter referred to as NIT) was issued on 21st July, 2025 inviting applications from eligible bidders. The appellant participated in the tender process submitting all credentials. However, without appropriately considering the same, the authorities abruptly rejected his technical bid on a purported plea that the credentials pertain to a work conducted by the Public Works Department under the administrative directions of Tourism Department, Government of West Bengal and does not fulfill the eligibility criteria. Such decision is not sustainable inasmuch as a bare perusal of the eligibility criteria would reveal that the credentials are not limited only to items under the West Bengal Heritage Commission (hereinafter referred to as WBHC) but extends to items under the department of Architecture and Museum, Government of West Bengal or other equivalent Government organizations elsewhere in India.

4. He argues that under the NIT the Bid Evaluation Committee is the competent authority to assess the credentials furnished by the bidders and to take a reasoned decision. However, in the present case, the said Committee acted on the basis of a purported opinion given by the WBHC. Such decision-making authority could not have been outsourced to WBHC. Such act is *dehors* the terms of the NIT.

5. He further contends that the works executed by the firm were sanctioned under 25% enhanced heritage Bill of Quantities (hereinafter referred to as BOQ) rates which establishes their heritage character beyond doubt and that as such the respondents cannot take a stand that the appellant does not fulfill the eligibility criteria as spelt out in the NIT. In support of the arguments advanced reliance has also been placed upon the unreported judgments delivered in the cases of *Kimberley Club Pvt. Ltd. –vs- Krishi Utpadan Mandi Parishad & Ors.* and *Maha Mineral Mining & Benefication Pvt. Ltd. –vs- Madhya Pradesh Power Generating Co. Ltd. & Anr.*

6. Mr. Choudhury, learned Additional Advocate General, however, denies and disputes the contention of Mr. Mishra and submits that the Public Works Department is a general engineering department for execution of engineering works and not for works within the domain of conservation of heritage structures. The work under the NIT is a special work associated with conservation/restoration work comprising of retrofitting/rehabilitation items.

7. He submits that the appellant did not participate in the first call and the second call pertaining to the same work. The credentials submitted

by the appellant were pertaining to a work conducted under the administrative direction of Tourism Department, Government of West Bengal and does not have a heritage character.

8. He argues that the credentials furnished by the appellant are in respect of a building listed under WBHC and the work under the present NIT is also pertaining to a building listed under WBHC. In view thereof, it was incumbent upon the Bid Evaluation Committee to satisfy itself and to arrive at a definite finding as to whether the credentials of the appellant match with the eligibility criteria as specified in the NIT. The process adopted thus cannot be said to be arbitrary or unreasonable.

9. Heard the learned advocates appearing for the respective parties and considered the materials on record.

10. An Appellate Court interferes not with the order appealed is not right but only when it is clearly wrong. It should not ordinarily interfere with the discretion exercised by the learned single Judge unless such is decision is unreasonable and perverse.

11. The conditions incorporated in the NIT need to be considered together and not in isolation. The eligibility criteria under NIT itself pertains to items under WBHC or other governmental organization. The credentials furnished by the appellant are also pertaining to a building listed under WBHC. In view thereof, to come to a conclusion as regards the appellant's eligibility and competence, the learned single Judge relegated the issue for a specific opinion from WBHC, moreso when, the work under NIT is a special work associated with conservation / restoration comprising of retrofitting /

rehabilitation. In view thereof, we do not find any infirmity in the order impugned warranting interference in this appeal.

12. It is well known that a decision is an authority for what it decides and not what can logically be deduced therefrom. Even a slight distinction in fact or an additional fact may make a lot of difference in decision making process. The judgments upon which reliance has been placed by the appellant are distinguishable on facts.

13. For the reasons discussed above, the appeal and the connected application are dismissed.

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

15. As the time to reassess the appellant's technical bid and to take a final decision has already expired, the Bid Evaluation Committee shall complete the exercise within 15th January, 2026.

16. Urgent photostat certified copy of this order, if applied for, be supplied to the parties, upon compliance of all requisite formalities.

(Biswaroop Chowdhury, J.)

(Tapabrata Chakraborty, J.)