

CWP-3866-2025 (O&M)

2025:PHHC:123300-DB



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP-3866-2025 (O&M)

Date of Decision: September 09, 2025

M/s Patel Infrastructure Limited and another

..... Petitioners

Versus

**Haryana Rail Infrastructure Development Corporation Limited and
another**

..... Respondents

**CORAM:- HON'BLE MRS. JUSTICE LISA GILL
HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA**

Present: Mr. Sanjay Kaushal, Senior Advocate with
Mr. Kanwal Goyal, Advocate,
Ms. Shruti Jain, Advocate and
Ms. Sheena Dahiya, Advocate for the petitioners.

Mr. Ankur Mittal, Advocate with
Mr. Shivendra Swaroop, Advocate and
Ms. Kushaldeep Kaur, Advocate for respondent No. 1.

LISA GILL, J.

1. Prayer in this writ petition is for directing respondents particularly respondent No. 1 to finalise and award Tender No. HORC/HRIDC/C-5/2023 dated 03.11.2023 and tender ID No. TID:2023_HBC_327530_1 in favour of present most advantageous tenderer i.e. petitioner No. 1 in accordance with terms and conditions of tender in a time bound manner. It is further prayed that respondent No. 1 be restrained from cancelling/annulling or in any manner

abandoning the tender process emanating from above said tender or from awarding tender to any other bidder during pendency of this writ petition.

2. Brief facts as pleaded are that petitioner No. 1 is a company incorporated under Companies Act, 1956 and is engaged in business of construction of projects in respect to roads, highways, buildings, bridges and other civil construction. Petitioner No. 2 is a shareholder and Director of petitioner No. 1. Respondent No. 2 i.e. Haryana Orbital Rail Corporation Limited incorporated under Companies Act, 2013 is a Special Purpose Vehicle (SPV) for the purpose of Haryana Orbital Rail Corridor Project (HORC) spanning from Palwal to Sonipat via Sohna, Manesar and Kharkhoda for facilitation of diversion of freight traffic not meant for Delhi region for developing multimodal hubs in National Capital Region of Haryana. Total length of project is approximately 140 kms and 95 kms of the alignment runs parallel to KM expressway.

3. Respondent No. 1 – Haryana Rail Infrastructure Development Corporation Limited is a State joint venture with 51% of share of Haryana Government and 49% share of Ministry of Railways. Respondent No. 1 is the implementing agency for HORC project which is the semi-high speed new (BG) line from Palwal to Sonipat. Asian Infrastructure Investment Bank (AIIB) is the funding Agency of the project in question. Respondent No. 1 being the implementing Agency issued tender dated 03.11.2023 bearing No. HORC/HRIDC/C-5/2023 for the project in question consisting of work of ‘Contract Package C-5’ which was published on E-Procurement Portal of Government of Haryana on 08.11.2023. DNIT was issued for composite contract package in connection with new BG double railway line of HORC project between Prithla and Dhulawat for:

- i) Design and construction of Civil Works (Earthwork, Bridges, Stations and Retaining Walls) from km -2.296 to km12.00 & km18.00 to km 20.942;
- ii) Design & Construction of viaduct from km 20.942 to km 24.844;
- iii) Design & Construction of Ballastless track from km 20.842 to km 24.844; and
- iv) Design, Supply, Installation, Testing & Commissioning of General Electrical Services from km -2.296 to km 12.00 and km 18.00 to km 24.844.

4. Final tender document was issued vide corrigendum No.2 dated 03.01.2024. Ten (10) bidders including petitioner No.1 participated in the tender process. Technical bids were opened on 31.01.2024 and out of ten (10) bidders, nine (9) including the petitioner were found responsive.

5. Financial bids were opened on 08.04.2024 and one M/s Dilip Buildcom Limited emerged as lowest bidder (L-1) and petitioner No. 1 was L-2. Thereafter, Financial Part Evaluation Report prepared by General Consultant alongwith HRIDC, HOD Committee report was submitted to AIIB for No Objection Letter on 01.05.2024. No Objection Letter to tender document was issued by AIIB on 08.05.2024. Acceptance from Haryana Orbital Rail Corporation Limited by Board was obtained on 30.05.2024 and decision of Board was sent for perusal of Chief Minister of Haryana. Bid and tender securities submitted by bidders were initially valid up to 29.07.2024 and 26.08.2024.

6. As tender could not be finalised, respondent No. 1 vide communication dated 23.07.2024 requested bidders to extend the period of validity of tender. It is the case of respondents that process got stalled due to coming in force of Model Code of Conduct on account of declaration of

CWP-3866-2025 (O&M)

Parliamentary elections. Eight (08) out of nine (09) bidders including L-1 and petitioner extended validity of bids upto 27.09.2024. However, L-1 on 29.08.2024 submitted notice of withdrawal of its tender prior to its earlier extended validity period i.e. 27.09.2024. Vide letter dated 31.08.2024, L-1 was informed by the respondent that withdrawal of tender at this stage would result in forfeiture of tender security and L-1 was further informed via letter dated 22.09.2024 that request for withdrawal submitted by it on 29.08.2024 may be withdrawn. However, L-1 vide communication dated 09.09.2024 (via e-mail at 8.04 p.m.) confirmed their request for withdrawal submitted on 29.08.2024. Vide its communication dated 09.09.2024 (via e-mail at 6.17 p.m.), petitioner No. 1 notified respondent No. 1 that it came to their notice that L-1 had refused to extend validity of tender upto 27.09.2024. Thus, petitioner No. 1 being the most advantageous tenderer, as defined in Clause 42 of Instructions to Tenderers (ITT) should be awarded the work. However, no response was received. Tender Security validity was again extended by petitioner No. 1 up to 25.10.2024. Petitioner No. 1 was again asked by respondent to extend bid validity upto 30.12.2024 on the ground of some more time being taken for finalisation of tender. Tender security validity was then extended upto 27.01.2025 as reflected in communication dated 20.12.2024 by petitioner No. 1. Bid validity was ultimately extended upto 31.03.2025 by petitioner No.1. As the matter was not being finalised, present writ petition was filed in February, 2025.

7. Notice of motion was issued in this writ petition on 11.02.2025 by Co-ordinate Bench and parties were directed to maintain status quo, as it existed, on the said date.

8. As per reply filed on behalf of respondents, it was due to enforcement of Model Code of Conduct that award of contract could not be finalised uptill 29.07.2024. It was submitted for perusal of Chief Minister of Haryana on 23.07.2024. Anticipating delay in finalisation, extension of validity of tender bid and security was sought in terms of clause 18.2 of ITT, which reads as under:-

“18.2. In exceptional circumstances, prior to the expiration of the Tender validity period, the Employer may request Tenderers to extend the period of validity of their Tenders. The request and the responses shall be made in writing. If a Tender Security is requested in accordance with ITT 19, it shall also be extended for a corresponding period. A Tenderer may refuse the request without forfeiting its Tender security. A Tenderer granting the request shall not be required or permitted to modify its Tender, except as provided in ITT 18.3.”

9. It was submitted that after extension of validity of tender bid to 27.09.2024, notice of withdrawal of tender by L-1 i.e. M/s Dilip Buildcom Limited was received on 29.08.2024 via e-mail. L-1 was informed vide communication dated 31.08.2024 that withdrawal of tender at this stage would result in forfeiture of tender security and vide communication dated 02.09.2024, L-1 was advised to withdraw letter dated 29.08.2024. This was met with response i.e. e-mail dated 09.09.2024 at 8.04 p.m. from L-1, confirming their request for withdrawal dated 29.08.2024. In this eventuality, bank guarantee deposited by L-1 was encashed by respondent on 17.09.2024. Petitioner No. 1 on 09.09.2024 itself sent an e-mail at 6.17 p.m. to respondent No. 1 seeking award of work to it, being the next most advantageous tenderer. It was further stated that since contract awarding process was abruptly disrupted and halted, finalisation of tender would necessarily take time, therefore, seven (07)

CWP-3866-2025 (O&M)

remaining bidders were requested on 19.09.2024 to extend the validity. Six tenderers including petitioner No. 1 extended validity of their tender upto 30.12.2024. It was further stated that upon receiving confirmation from tenderers regarding extension of validity of their tender, General Consultant was advised for revaluation of remaining valid offers of the tenders as per conditions of tender. General Consultant submitted Financial Part Revaluation Report to respondent No. 1 on 23.11.2024. As validity of tenders was up to 30.12.2024, third extension was requested by respondent No. 1 vide communication dated 17.12.2024 uptill 31.03.2025 and extension of validity of tender security upto 28.04.2025. In response thereto, five tenderers extended validity of their tender security up to 31.03.2025 and only three (03) tenderers including petitioner No. 1 further submitted extended validity of tender security upto 28.04.2025. It is stated in the short reply filed on behalf of respondent No. 1 that during pendency of Financial Part Revaluation Process, petitioner again submitted a request to respondent No. 1 and funding Agency i.e. AIIB to award contract in its favour in contravention of sub clause 26.1 of Section I of ITT and that writ petition, it is claimed, was premature as Financial Part Revaluation Process was still not concluded and was pending approval of funding Agency. Persistent correspondence by petitioner to influence tendering process is stated to be in contravention of sub Clause 26.2 of Section I of ITT, which provides that any attempt by a tenderer to influence the employer in evaluation of tenders or contract award decisions may result in rejection of its tender. It is further stated in said reply that employer in terms of sub clause 43.1 of Section I of ITT has a right to accept or reject any or all tenders.

10. CM-8358-CWP-2025 was filed by respondent No. 1 on 23.05.2025 seeking vacation of interim order dated 11.02.2025 on the premise that

respondents were unable to take any decision in the matter in view of interim order, thus, leading to delay in the entire process.

11. CM-11938-CWP-2025 was filed for placing on record additional facts and annexures with respect to Haryana Orbital Rail Corridor project. It is stated therein that the matter remained pending and owing to withdrawal of tender by L-1, entire process was materially effected as the entire project is being funded through AIIB having huge financial implications. No decision could be taken in haste and at the same time utmost transparency is required to be maintained. Award of contract of such nature involving high stakes to L2/L3 bidders shall not only result in financial loss by way of higher contract price but will also vitiate the integrity of tendering process and may set a precedent for bidders participating in future tenders to indulge in unethical and collusive practice.

12. It is asserted that petitioner No. 1, even though claiming to be the most advantageous bidder, still presents a difference of Rs.56.33 crores in the bid submitted by it and L-1. Reference is made to communication dated 03.03.2007 from Central Vigilance Commission whereby directives for re-tendering have been issued in case of withdrawal of offer by L-1. Said instructions have been incorporated in Manual of Procurement of Works issued by Department of Expenditure, Ministry of Finance. Validity of the tender expired on 31.07.2025 and thereafter no further extension has been called from any bidder including petitioner, who however, on its own has submitted letter extending validity upto 30.09.2025. No Objection Letter for annulment of tender has already been issued by AIIB.

13. Learned senior counsel for petitioner vehemently argued that once the bid was withdrawn by L-1 on 29.08.2024, it was incumbent upon

CWP-3866-2025 (O&M)

respondent-authorities to have awarded the contract to petitioner No.1. Various extensions were sought and given by petitioners regarding bid validity but still respondents in a malafide manner did not award the contract to petitioners. It is pointed out that respondents have raised incorrect pleas of collusion and such allegations are proved to be incorrect by withdrawal of notice of blacklisting of L-1. CWP-5783-2025 filed by L-1 was thereafter withdrawn on 07.04.2025.

14. Learned senior counsel for petitioners relies upon judgement of Hon'ble the Supreme Court in **Subodh Kumar Singh Rathour Vs. Chief Executive Officer and others, 2024 SCC OnLine SC 1682** to submit that in the present matter there is a clear cut violation of Article 14 of Constitution of India. It is submitted that there is no question of any breach of the confidentiality clause. It is, thus, prayed that this writ petition be allowed as prayed for.

15. Learned counsel for respondents while refuting the arguments led on behalf of petitioners submits that project in question is of national importance. At the initial stage due to Model Code of Conduct being enforced on account of Parliamentary Election, bid could not be finalized. Reference is made to subsequent events, including submission of withdrawal of tender by L-1. It is submitted that after extending the bid validity till 27.09.2024 by L-1, notice of withdrawal was submitted on 29.08.2024 by L-1. Unfolding of events as detailed in foregoing paras and stand of respondents in the short reply filed on their behalf and subsequent applications as narrated in foregoing paras was reiterated by learned counsel for respondents. It was stated that due to interim order dated 04.03.2025 granted by Coordinate Bench, the matter could not be finalized. Ultimately No Objection Letter for annulment of tender was issued by AIIB but no action can be taken due to said interim order.

16. After arguments had been concluded by learned counsel for respondents, learned senior counsel for petitioners submitted that at that juncture he has instructions to state that bid of L-1 can be matched by petitioner No.1. Learned counsel for respondents, however, submitted that such an offer at this belated stage, is clearly unacceptable, for it is a matter of record that stand of respondents at the time of filing of short reply dated 02.04.2025 was clear inasmuch as it was stated that present writ petition is premature as tender could not be finalised on account of interim order. No such offer was ever made by petitioner at that stage or even thereafter when application for vacation of interim order was filed. Interim order afforded in February, 2025 was enjoyed by petitioners till date. Dismissal of writ petition is sought.

17. We heard learned counsel for parties at length and have carefully perused the file.

18. Issuance of tender dated 03.11.2023 and participation of bidders which include petitioner No. 1 and L-1 i.e. M/s Dilip Buildcom Limited as has been detailed in foregoing parties, is a matter of record. It is further a matter of record that various extensions of tender validity were sought by respondent No. 1 from bidders. Eight (08) out of nine (09) bidders including L-1 and petitioner extended validity of their bids upto 27.09.2024. M/s Dilip Buildcom Limited – L-1 in response to request dated 23.07.2024 had extended validity of bid upto 22.09.2024. However, it submitted its notice of withdrawal on 29.08.2024. L-1 was informed that withdrawal of tender at this stage would result in forfeiture of tender security. Vide communication dated 02.09.2024 L-1 was again advised that in case letter dated 29.08.2024 for withdrawal is not revoked, it shall be treated as withdrawal of offer in connection with ITT 19.3 and shall result in forfeiture of tender security in accordance with ITT 19.7 of Section I. It is

CWP-3866-2025 (O&M)

specifically stated in short reply dated 02.04.2025 that L-1 vide communication dated 09.09.2024 through e-mail sent at 8.04 p.m. affirmed withdrawal of their tender and on the same day i.e. 09.09.2024, petitioner No. 1 sent an e-mail at 6.17 p.m. requesting respondent No. 1 to process the matter for award of work to it as the next most advantageous tenderer.

19. Proceedings against L-1 culminated in forfeiture of its bank guarantee. Order dated 24.02.2025 was passed by respondent No. 1 blacklisting L-1 i.e. M/s Dilip Buildcom Limited. CWP-5783-2025 was filed by L-1 challenging order of blacklisting. CWP-5783-2025 was ultimately disposed of in view of statement made by learned counsel for respondent – HRIDC to the extent that order of blacklisting L-1 had been withdrawn.

20. Learned counsel for petitioner has tried to build the foundation of petitioner's case on the basis of repeated extensions of tender, bid and security being sought and given by present petitioners to urge that petitioner No. 1 is entitled for allotment of work in question being the most advantageous tenderer. However, in our considered opinion, this fact by itself cannot be a reason to direct awarding of contract to petitioner No. 1.

21. At this stage, it is to be noted that work in the tender admittedly forms part of Orbital Rail Corridor Regional Plan of National Capital Region Planning Boards' for developing economic growth corridor in NCR. It is doubtlessly an infrastructural project of national importance. Complete project alignment of HORC is 126 kms new BG electrified double line fit for double stack with total sanctioned cost of Rs. 5617 crores. HORC shall integrate with following railway lines:

- i) Mumabi - Delhi line
- ii) Delhi - Amritsar Line

- iii) Delhi - Ahmedabad line
- iv) Delhi - Rohtak line
- v) Garhi Harsaru- Farukhnagar line

22. It is the specific case of respondents and not denied by petitioners that out of total stretch of 120 kms, work is in progress for 41 kms including construction of tunnel. Section from Farukhnagar to Patli is targeted for commissioning in June 2026. Out of 9.4 kms tunnel stretch of more than 3.5 kms is stated to have been completed. Section of 10 Km from Patli to Manesar, providing direct railway connectivity to the Maruti plant at Manesar was inaugurated on 17.06.2025. It was specifically stated by learned counsel for respondent that section for which present tender was issued, is significant and crucial for facilitating timely completion of entire HORC project and that construction of 3.9 km long and 26 m high viaduct is a challenging engineering feature in HORC project with proposed construction period of three years. Specific roadblock has been created at crucial initial segment of Rail Corridor as was pointed out from site plan of HORC attached with CM-11938-CWP-2025. In the present case, as of now petitioner No. 1 is the only tenderer/bidder left in fray. In the meanwhile, respondent has received no objection letter for annulment of tender from AIIB. Fresh evaluation of work has admittedly been carried.

23. At this stage, it is useful to refer to Circular No. 4/3/07 issued by Central Vigilance Commission, Government of India on 03.03.2007 which provides for re-tender in case L-1 backs out. Relevant part of said circular reads as under:-

“(i) As post tender negotiations could often be a source of corruption, it is directed that there should be no post-tender

negotiations with L-1. except in certain exceptional situations. Such exceptional situations would include, procurement of proprietary items, Items with limited sources of supply and items where there is suspicion of a cartel formation. The justification and details of such negotiations should be duly recorded and documented without any loss of time.

(ii) In cases where a decision is taken to go for re-tendering due to the unreasonableness of the quoted rates, but the requirements are urgent and a re-tender for the entire requirement would delay the availability of the item, thus jeopardizing the essential operations, maintenance and safety, negotiations would be permitted with L-1 bidder(s) for the supply of a bare minimum quantity. The balance quantity should, however, be procured expeditiously through a re-tender, following the normal tendering process.

(iii) Negotiations should not be allowed to be misused as a tool for bargaining with L-1 with dubious intentions or lead to delays in decision-making. Convincing reasons must be recorded by the authority recommending negotiations. Competent authority should exercise due diligence while accepting a tender or ordering negotiations or calling for a re-tender and a definite timeframe should be indicated so that the time taken for according requisite approvals for the entire process of award of tenders does not exceed one month from the date of submission of recommendations. In cases where the proposal is to be approved at higher levels, a maximum of 15 days should be assigned for clearance at each level. In no case should the overall timeframe exceed the validity period of the tender and it should be ensured that tenders are invariably finalised within their validity period.

xxx

xxx

xxx

2. It is reiterated that in case L-1 backs-out, there should be a re-tender.”

24. Subsequent to issuance of said circular, amendment was carried out in the Manual for Procurement of Goods, 2017 and Manual for Procurement of

Works, 2019 to the extent that in case the bidder whose bid has been found to be the lowest evaluated bid withdraws or whose bid has been accepted but it fails to sign the procurement contract as may be required, the procuring entity can re-tender.

25. In the given facts and circumstances, we do not find any ground to direct allotment of work in favour of petitioner No. 1 exclusively or restrain respondents from re-tendering the work in question.

26. Reference by learned senior counsel for petitioners to judgment of Hon'ble the Supreme Court in the case of **Subodh Kumar** (supra) is of no avail to petitioners as this decision is not applicable in the given factual matrix because in **Subodh Kumar's** (supra) matter, LOI had been issued to petitioner therein and contract was cancelled on the premise that financial terms of said contract were less favourable over a period of time. Hon'ble the Supreme Court in **Subodh Kumar's** case (supra) has held as under:-

“115. What can be discerned from the above is that this Court has consistently underscored that any decision to terminate a contract must be grounded in a real and palpable public interest, duly supported by cogent materials and circumstances in order to ensure that State actions are fair, transparent, and accountable. Public interest cannot be used as a pretext to arbitrarily terminate contracts and there must be a clear and demonstrable ramification or detriment on the public interest to justify any such action.

116. Considerations of public interest should not be narrowly confined to financial aspects. The courts must have a more holistic understanding of public interest wherever the fairness of public authorities is in question, giving due regard to the broader implications of such action on the stability of contractual obligations. Merely because the financial terms of a contract are less favourable over a period of time does not justify its

termination. Such decisions must be based on a careful consideration of all relevant factors, including the potential harm to the integrity and sanctity of contractual relationships. The larger interest of upholding contracts cannot be discarded in the name of monetary gain labelled as public interest.

xxx

xxx

xxx

126. The sanctity of public tenders lies in their role in upholding the principles of equal opportunity and fairness. Once a contract has come into existence through a valid tendering process, its termination must adhere strictly to the terms of the contract, with the executive powers to be exercised only in exceptional cases by the public authorities and that too in loathe. The courts are duty bound to zealously protect the sanctity of any tender that has been duly conducted and concluded by ensuring that the larger public interest of upholding bindingness of contracts are not sidelined by a capricious or arbitrary exercise of power by the State. It is the duty of the courts to interfere in contractual matters that have fallen prey to an arbitrary action of the authorities in the guise of technical faults, policy change or public interest etc.”

27. It is, thus, apparent that in case of **Subodh Kumar** (supra) contract in favour of petitioner therein had been cancelled on the ground that higher licence fee may be fetched. It was in this factual matrix it was held by Hon’ble the Supreme Court that action of cancelling said tender was unjustified especially when respondent therein had failed to demonstrate as to how there was a technical fault in the tender or that potential interested bidders did not participate and the premise that cancellation of tender was carried out to float separate tenders, one for maintenance work and licencing advertisement rights to ensure expertise in each field, did not find favour.

28. The present factual matrix is entirely different as has been discussed in the foregoing paras. The contract in question has not been executed

in favour of petitioner No.1 or any other. Gainful reference at this stage can be made to judgment of Hon'ble the Supreme Court in **The Principal Chief Conservator of Forest & Ors. Versus Suresh Mathew & Ors. 2025 AIR Supreme Court 2118**, wherein earlier judgments of Hon'ble the Supreme Court in **Tata Cellular v. Union of India (1994) 6 SCC 651**, **M/s Michigan Rubber (I) Ltd. v. State of Karnataka, (2012) 8 SCC 21**, **Jagdish Mandal v. State of Orissa, (2007) 14 SCC 517** and **State of Orissa v. Harinarayan Jaiswal AIR 1972 SC 1816** have been reiterated. It was held as under:-

“16. The question of scope of judicial review in the cases of award of contracts has already been dealt with by the Hon'ble Supreme Court in the case of **Jagdish Mandal v. State of Orissa and others (2007) 14 SCC 517** wherein the Court observed as under:

"22. Judicial review of administrative action is intended to prevent arbitrariness, irrationality, unreasonableness, bias and mala fides. Its purpose is to check whether choice or decision is made "lawfully" and not to check whether choice or decision is "sound". When the power of judicial review is invoked in matters relating to tenders or award of contracts, certain special features should be borne in mind. A contract is a commercial transaction. Evaluating tenders and awarding contracts are essentially commercial functions. Principles of equity and natural justice stay at a distance. If the decision relating to award of contract is bonafide and is in public interest, courts will not, in exercise of power of judicial review, interfere even if a procedural aberration or error in assessment or prejudice to a tenderer, is made out. The power of judicial review will not be permitted to be invoked to protect private interest at the cost of public interest or to decide contractual disputes. The tenderer or contractor with a grievance can always seek damages in a civil court. Attempts

by unsuccessful tenderers with imaginary grievances, wounded pride and business rivalry, to make mountains out of molehills of some technical/procedural violation or some prejudice to self, and persuade courts to interfere by exercising power of judicial review, should be resisted. Such interferences, either interim or final, may hold up public works for years, or delay relief and succour to thousands and millions and may increase the project cost manifold. Therefore, a court before interfering in tender or contractual matters in exercise of power of judicial review should pose to itself the following questions:

(i) Whether the process adopted or decision made by the authority is mala fide or intended to favour someone;

Or

Whether the process adopted or decision made is so arbitrary and irrational that the Court can say: "the decision is such that no responsible authority acting reasonably and in accordance with relevant law could have reached.

(ii) Whether public interest is affected.

If the answers are in the negative, there should be no interference under Article 226. Cases involving blacklisting or imposition of penal consequences on a tenderer/contractor or distribution of State largesse (allotment of sites/shops, grant of licenses, dealerships and franchises) stand on a different footing as they may require a higher degree of fairness in action."

We are of the opinion that the High Court has committed a gross error while observing the facts in the case of Jagdish Mandal (supra) were entirely different in regard to a defective tender submitted by a participant.

17. In the case of **State of Orissa and others v. Harinarayan Jaiswal and others AIR 1972 SC 1816**, in relation to excise revenue, the Supreme Court observed as under:

"13. ... The Government is the guardian of the finances of the State. It is expected to protect the financial interest of the State. Hence quite naturally, the Legislature has empowered the Government to see that there is no leakage in its revenue. It is for the Government to decide whether the price offered in an auction sale is adequate. While accepting or rejecting a bid, it is merely performing an executive function. The correctness of its conclusion is not open to judicial review.

We fail to see how the plea of contravention of Article 19 (1) (g) and Article 14 can arise in these cases..."

18. The law regarding government contracts or auctions and the nature and scope of its judicial review is well settled. In the case of **M/s Michigan Rubber (I) Ltd. v. State of Karnataka and ors. (2012) 8 SCC 216**, the Supreme Court observed as under:

"23. From the above decisions, the following principles emerge:

- (a) The basic requirement of Article 14 is fairness in action by the State, and non-arbitrariness in essence and substance is the heartbeat of fair play. These actions are amenable to the judicial review only to the extent that the State must act validly for a discernible reason and not whimsically for any ulterior purpose. If the State acts within the bounds of reasonableness, it would be legitimate to take into consideration the national priorities;
- (b) Fixation of a value of the tender is entirely within the purview of the executive and the courts hardly have any role to play in this process except for striking down such action of the executive as is proved to be arbitrary or unreasonable. If the Government acts in conformity with certain healthy standards and norms such as awarding of contracts by inviting tenders, in those circumstances, the interference by courts is very limited;
- (c) In the matter of formulating conditions of a tender document and awarding a contract, greater latitude is required to be conceded to the State authorities unless the action of the tendering authority is found to be malicious and a misuse of its statutory powers, interference by courts is not warranted;
- (d) Certain preconditions or qualifications for tenders have to be laid down to ensure that the contractor has the capacity and the resources to successfully execute the work; and
- (e) If the State or its instrumentalities act reasonably, fairly and in public interest in awarding contract, here again, interference by court is very restrictive since no person can claim a fundamental right to carry on business with the Government."

29. Learned counsel for petitioners was unable to point out any arbitrariness or capricious exercise of power by the State in this matter or anything to indicate that action of the respondent was not fair, transparent or accountable. Furthermore, offer made by learned counsel for petitioners after

CWP-3866-2025 (O&M)

completion of arguments by learned counsel for respondents does not in any manner compel us to issue a specific direction to respondents to accept the same. It is a matter of record that such an offer, at no stage, had earlier been given by petitioner No. 1. It is indeed upto respondent to accept or reject the same and especially keeping in view the fact that tender validity has come to an end. Tender in question was issued in November, 2023. Respondent is well within its rights to have whole the situation revaluated and take necessary steps as may be required and called for in the given factual situation.

30. No other argument was addressed.

31. Keeping in view the facts and circumstances as above, we do not find any ground whatsoever to cause interference in this matter in exercise of jurisdiction under Article 226 of Constitution of India.

32. Writ petition is, accordingly, dismissed.

(LISA GILL)
JUDGE

(MEENAKSHI I. MEHTA)
JUDGE

September 09, 2025
Rts

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No