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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Judgment reserved on: 28.11.2025.

% **Judgment delivered on: 16.12.2025**

\+ W.P.(C) 8347/2025,CM APPL. 36184/2025, CM APPL. 38940/2025, CM APPL. 38942/2025, CM APPL. 39040/2025, CM APPL. 39125/2025, CM APPL. 44474/2025, CM APPL. 44476/2025 & CM APPL. 69773/2025

ANANDAM MINERALS PRIVATE LIMITED .....Petitioner

Through: Mr. Sandeep Sethi, Senior Advocate with Ms. Megha Karnwal, Mr. Aaditya Thorat, Mr. Anshal Singh, Mr. Karthikey Suyal, Ms. Shreya Sethi & Mr. Krishna Gambhir, Advocates

versus

UNION OF INDIA THROUGH ITS SECRETARY, MINISTRY OF MINES & ORS.

.....Respondents

Through: Dr. B. Ramaswamy, CGSC for R-1.

Mr. Amar Dave, Senior Advocate with Ms. Sonia A. Menon, for R-2/MSTC with Mr. Mayank Pandey, GM, System, Mr. Argha Sen Gupta, DGM System, Mr. Zjbair Khan, SM, Law and Mr. SetuDutt Sharma, SM, NRO

Mr. Rajiv Nayar and Ms. Malvika Trivedi, Senior Advocates with Mr. Gaurav Juneja, Ms. Swastika Chakravarti, Mr. Mimansha Durgapal and Mr. Shailendra, Advocates for R-3.

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

J U D G M E N T

DEVENDRA KUMAR UPADHYAYA, C.J.

1. Heard the learned counsel for the parties.

2. This petition filed under Article 226 of the Constitution of India seeks to challenge the notice dated 27.05.2025 issued by the respondent no.1 – Union of India to the extent it declares the respondent no.3 –Sunflag Iron and Steel Company Limited as the preferred bidder for grant of composite license for phosphorite mineral in respect of Surajpura Phosphorite Block, Chhatarpur, Madhya Pradesh (hereinafter referred to as subject mineral block). A prayer has also been made by the petitioner to issue a direction to the respondent nos.1 and 2 to continue the bidding process for the subject mineral block from the point where the technical error allegedly arose, so as to ensure that maximum price through auction is realised.

3. The Ministry of Mines, Government of India – respondent no.1, issued a Notice Inviting Tender (hereinafter referred to as NIT) on 20.01.2025 for the grant of a composite license for the subject mineral block through e-auction process.

4. The petitioner pursuant to the said NIT dated 20.01.2025, submitted its technical bid and *vide* e-mail communication dated 21.05.2025 issued by the respondent no.2 – Metal Scrap Trade Corporation (hereinafter referred to as MSTC), the petitioner was declared to be a technically qualified bidder in terms of Clause 8.1 A (e) of the NIT and it was further informed that floor price for the second round of online electronic auction in terms of Clause 8.1 A (d) of the NIT is 60.62%. Through the said e-mail, the petitioner was also informed that the e-auction is scheduled to start on 21.05.2025 at 02:00 p.m., which will end at 04:00 p.m. on the said date. The petitioner was further informed that the e-auction will have an auto extension option of 08 minutes.

5. On 21.05.2025, as per the case set up by the petitioner, he started bidding at 02:00 p.m. and continuously offered his bid till 09:26 p.m. at a floor price of 70.22%. It is also stated by the petitioner that simultaneously the respondent no.3 had submitted its bid at 70.27% floor price at 9:29 p.m. and thereafter, when the petitioner tried to enhance the bid to 70.32% at 9:33 p.m., and pressed the "submit button", suddenly the screen went blank/white which continued for two to three minutes. It has also been averred by the petitioner in the writ petition that when the page was not shown, the petitioner immediately pulled the Digital Signature Certificate (DSC), which is mandatory for bidding, at 09:36 p.m. from the system and put it in other backup laptop/system and tried again to login at 09:36 p.m. However, the petitioner further states, once again, the page got blank, and the petitioner could not submit its bid further, and in this process, 08 minutes got lapsed and, therefore, the auction got closed.

6. The petitioner has also stated that immediately, an e-mail communication was sent to the respondents narrating the aforesaid incident with a request to allow the petitioner to continue the bidding process. The petitioner is said to have made telephonic calls as well, and also sent WhatsApp messages to the designated officers of the Union of India, and in addition, a detailed e-mail was also sent on 21.05.2025 at 11:29 p.m., intimating the said incident and sought guidance/clarification as to how the issue can be resolved promptly.

7. On 22.05.2025, the petitioner is said to have sent an e-mail communication to the Joint Secretary, Ministry of Mines, Union of India, as well as to the Regional Manager of the respondent no.2, explaining in detail the incident which had allegedly resulted in non-submission of the bid by the petitioner.

8. The respondent no.1, however, published the impugned notice dated 27.05.2025 declaring the preferred bidders in respect of ten mineral blocks under Tranche V. In this notice dated 27.05.2025, the respondent no.3 has been declared to be the preferred bidder in respect of the subject mineral block, which is under challenge herein.

9. It has principally been argued on behalf of the petitioner that it is only on account of the technical glitch in the system of the portal of the respondent no.2, where the bid process was organised, that the petitioner's further bid could not be submitted; otherwise, the petitioner would have been the successful bidder. It has also been submitted by the petitioner that the petitioner had continuously submitted its bid in the e-auction process from 02:00 p.m. till around 09:26 p.m. when the bid offered by the petitioner was at 70.22% floor price. It is also stated that in answer/response to the bid of respondent no.3 at 70.27% at 09:29 p.m., the petitioner sought to enhance its bid to 70.32% after 04 minutes at 09:33 p.m., however, while attempting to press the submit button the screen had gone blank/white which continued for around two to three minutes and that it is this glitch that rendered the petitioner ineligible to participate further. According to the petitioner, this occurred on account of the fault at the end of the respondent no.2 – MSTC and that despite repeated attempts, the petitioner was unable to submit its next higher bid.

10. Learned senior representing the petitioner has stated that the petitioner is even today ready to bid at 100% floor price.

11. Opposing the writ petition, it has been contended by the respondent nos.1 and 2 that had it been the case as is being projected by the petitioner, the other bidders too would have faced similar issues. It has been further argued that none of the other bidders or in any other auction process which were carried out simultaneously, had even a single bidder complaining about any

technical glitch, and therefore, this petition does not bear any ground to be entertained.

12. The submissions made on behalf of the respondent nos.1 and 2 has been echoed by the learned senior counsel representing the respondent no.3 - the successful bidder, and it has been stated that if the allegations of the petitioner were correct, even the respondent no.3 would not have been able to bid.

13. When the matter was first heard by this Court, the learned counsel for the parties had agreed that the issue arisen herein is highly technical in nature, that is to say as to whether the technical glitch as alleged by the petitioner is a fact or not and further that such a fact cannot be ascertain by this Court and, therefore, it needs to be necessarily referred to an expert body. Accordingly, by means of an order dated 06.06.2025, we provided that the Director, Indian Institute of Technology, Delhi, shall nominate an Expert Committee comprising of two members to look into the issue of technical glitch on the portal of MSTC at the relevant point in time. It was further directed that logs, screenshots and other relevant technical materials shall be made available by the petitioner as also by the respondent No. 2, to the said Expert Committee. The Expert Committee was requested to tender its opinion and submit a report before the Registrar General of this Court. The order passed on 06.06.2025 by the Court is extracted hereinbelow:-

> *"**CM APPL. 36185/2025 (exemption from filing certified copy of the impugned notice) and CM APPL. 36185/2025 (exemption from filing legible/ typed copies of the dim/ illegible annexures)***
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> *1. Exemptions allowed, subject to just exceptions.*
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> *2. Applications stand disposed of accordingly.*
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> ***W.P.(C) 8347/2025 and CM APPL. 36184/2025 (stay)***
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> *3. The present writ petition has been filed under Article 226 of the Constitution of India seeking the following reliefs:*

"a. The Hon'ble Court maybe pleased to issue the writ of mandamus directing the Respondent No. 1 & 2 to consider the application/representation submitted by the Petitioner on 22.05.2025 and 25.05.2025 and pass the speaking order and /or;

b. That, Hon'ble Court may kindly be pleased to issue a writ in the nature of Mandamus or any other appropriate Writ, order or direction directing the Respondent Nos. 1 to 2 to continue the bidding process of Surajpura Phosphorite Block from the point where the technical error arose and to ensure that the maximum price through this auction is realize; and/ or

c. That, Hon'ble Court may kindly be pleased to issue a writ in the nature of Mandamus or any other appropriate Writ, order or direction quashing the impugned notice dated 27.05.2025 issued by Respondent No. 1 to the extent it declares Respondent No. 3 as preferred bidder and all consequential actions/steps and in the alternative bidding be start from the point of 70.27% as it was disconnected and discontinued from then; and/or"

4. Mr. Nayyar, learned Senior Counsel appearing for the petitioner submits that but for the technical glitch which occurred while the e-auction process was continuing at 09:33 pm on 21.05.2025, the petitioner may have been a successful bidder.

5. He submits that the petitioner had continuously bid in e-auction process from 02:00 pm till around 09:26 pm, when his bid was at 70.22%. He submits that in answer to the bid of the respondent No. 3 at 70.27%, at 09:29 pm, the petitioner sought to enhance the bid to 70.32% after four minutes i.e. at 09:33 pm, however, while attempting to press the submit button, the screen had gone blank/ white, which continued for around 2-3 minutes. It is this glitch that rendered the petitioner ineligible to participate further, which according to the petitioner was a fault at the end of the respondent No. 2 / MSTC. He submits that despite repeated attempts, the petitioner was unable to submit its next higher bid. In fact, learned Senior Counsel also submits, on instructions, that the petitioner is even today ready to bid at 100%.

6. Issue notice.

7. Ms. Sonia A. Menon, learned counsel accepts notice for the respondent No. 2, Dr. B. Ramaswamy, learned Central Government Standing Counsel accepts notice for respondent No. 1/ Union of India *and Mr. Gaurav Juneja, learned counsel accepts notice for the respondent No. 3.*

8. Counter-affidavit be filed within 10 days. Rejoinder thereto, if any, be filed within 5 days thereafter.

9. Ms.Menon, learned counsel appearing for respondent No. 2/ MSTC, refutes the allegations made and categorically states that had that been the case as what the petitioner is projecting, the other bidders too would have faced similar issues. She categorically states that none of the other bidders, or any other auction process which was being carried out simultaneously, had even a single bidder complaining about a technical glitch. She submits that prima facie, there is no substance in the submissions made by the petitioner.

10. Ms. Trivedi, learned Senior Counsel appearing for the successful bidder/ respondent No. 3, also reiterates the submissions made by Ms. Menon. She submits that if the allegations of the petitioner were indeed correct, the respondent No. 3 would have also not been able to bid.

11. Mr. Ramaswamy, learned CGSC appearing for the respondent No. 1/ UOI submits that in the capacity of the principal, the contract has already been awarded to respondent No. 3 yesterday i.e. 05.06.2025, by the respondent No. 1.

12. The respondent No. 1/ UOI shall file the said documents along with its counter-affidavit. Since the tender auction process has reached to its ultimate stage, it would not be appropriate for this Court, at the moment, to interdict any such process.

13. At this stage, it is agreed by the learned counsel for the parties that since the matter is highly technical in nature, in that whether the technical glitch as alleged by the petitioner is a fact or not, cannot be ascertained by the Court and necessarily has to be referred to an expert body.

14. In that view of the matter, we find it appropriate to direct the Director of Indian Institute of Technology, Delhi ("IIT") to nominate an Expert Committee comprising of two members to look into the issue of technical glitch on the portal of MSTC/ respondent No. 2 at the relevant point in time. The necessary logs, screenshots and other relevant technical material shall be made available by the petitioner as also respondent No. 2/ MSTC to the said Expert Committee. Parties are *directed to give their contact numbers to the Director, IIT, Delhi to enable them to furnish the requisite documents/records. Let the same be done within a period of three days.*

15. The Expert Committee, so nominated, shall render its opinion and submit a Report before the Registrar General of this Court within ten days from the expiry of the aforesaid three days.

16. Registrar General shall submit a copy of the aforesaid Report to the learned counsel representing the parties within a day thereafter.

17. Parties may file their objections, if so required, within one day thereafter.

18. The remuneration of the members of the Expert Committee is fixed at Rs.1 lakh each which shall be paid by the petitioner through the Director, IIT Delhi.

19. Parties are expected to extend all cooperation with the said Expert Committee, so constituted as and when required.

20. Registry is directed to communicate this order to the Director, IIT, Delhi forthwith.

21. List this matter on 07.07.2025 before the Roster Bench."

14. Pursuant to the said order dated 06.06.2025 passed by the Court the Expert Committee report dated 01.07.2025 was forwarded through a letter of the Assistant Registrar, IIT, Delhi, dated 02.07.2025.

15. The Expert Committee report dated 01.07.2025 states that all the parties had a meeting on 19.06.2025 in the office of one of the members of the Expert Committee and it was decided that original desktops, backup laptop and the phone used to record the video will be retained for further analysis. The MSTC in the said meeting, was asked to send the server logs as well as code of the websites. The Expert Committee analysed the petitioner's logs as also the successful login attempts and failed login attempts by the petitioner and a successful re-login. The server source code and logs were also analysed and thereafter the Expert Committee concluded that there was no network or

hardware related issue and that the login attempt that started at "09:35:19 p.m." and concluded at "09:36:31 p.m" appears to be erroneous on the server side. It was also concluded that the login at the said time period was registered as a successful login in the server trace log, and accordingly, a response was sent to the petitioner, but an error message was not shown, and that server's database did not record this login attempt suggesting that an error may have happened on the server side during the login process.

16. The experts also opined that the duration of the login process was unusually long compared to all previous login attempts. The experts in the said report expressed their belief that there was some error on the server side which prohibited the petitioner from logging in, and further that the errors were not shown to the petitioner and all that was visible was a blank screen. It was also stated in the report that in all such cases, an error should be shown and the same should also be logged at the server side for later inspection.

17. On submission of the experts report dated 01.07.2025, it appears that officers of respondent no.2 made certain correspondence with the Expert Committee stating therein that there were certain data/material which had not been taken into account by the Expert Committee, and therefore, the said material data may also be considered. This fact was informed to the Court, and accordingly, Court took exception to such an act on the part of the respondent no.2 for the reason that in our order dated 06.06.2025, it was directed that the Registrar General of this Court on receipt of the report shall tender a copy thereof to the learned counsel representing the parties and thereafter the parties may file their objections, if so required to the said report. However, instead of filing objections to the said report in these proceedings, since the respondent no.2 had directly made correspondence with the Expert Committee, the Court in its order dated 07.07.2025 expressed that it did not appreciate the correspondence made by the officers of the respondent no.2

with the Expert Committee and permitted the respondent nos.2 and 3 to file their objections to the report furnished by the Expert Committee. The said order dated 07.07.2025 is extracted hereinbelow:-

> *"1. This Court, vide order dated 06th June 2025, appointed an Expert Committee comprising experts from the Indian Institute of Technology, Delhi ("IIT Delhi") and required the said Committee to render its opinion and submit a report to the Registrar General of this Court.*
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> *2. The Court further directed that the Registrar General, on receipt of the said report, shall tender a copy of the said report to learned counsel representing the parties within a day thereafter.*
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> *3. The Court had also provided that parties may also file their objections, if so required, to the said report.*
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> *4. We have been informed that in compliance of our order dated 06th June 2025, the Expert Committee had submitted its report, copies of which have also been tendered to the learned counsel representing the parties.*
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> *5. We have been further informed that after submission of the report by the Expert Committee, certain correspondences were made by the officers of respondent no.2 to the Expert Committee, stating that there were certain data/material which had not been taken into account by the Expert Committee and, therefore, the said material/data may also be considered.*
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> *6. Such a correspondence made by officers of respondent no.2 is in derogation of our order dated 06th June 2025.*
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> *7. If any of the parties to this proceeding had any objection to the report, of whatever kind or form, an opportunity was already available in terms of the order of the Court dated 06th June 2025 itself to file their objections. However, instead of filing any objection, the officers of respondent no.2 chose to directly correspond with the Expert Committee.*
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> *8. It need not be emphasized that the Expert Committee was appointed by this Court to elicit certain opinion/material for appropriate adjudication of the issues involved in this case, and as*

such the Expert Committee was to act as an agency of the Court and as its extended arm, and not that of respondent no.2.

9. No such correspondence could be entertained by the Expert Committee, once the report, as directed by this Court, has already been submitted to the Registrar General.

10. We do not appreciate the correspondence made by the officers of respondent no.2 after the submission of the report by the Expert Committee, who were possibly ill advised.

11. We, accordingly, advise the officers of respondent no.2 that they should not take proceedings of any court lightly.

12. The order of this Court dated 06th May 2025 was very clear, and any person of common prudence would have understood the same explicitly.

13. On the prayer made by learned counsel representing respondent 2 & 3, two days' time is granted to file their objections to the report tendered by the Expert Committee.

14. Reply to the said objections, if any, shall be filed by the petitioner within the next two days.

15. In the meantime, we direct that till the next date of listing, the Letter of Intent/Letter of Acceptance ("LOI/LOA") shall not be issued.

16. List on 25th July 2025.

17. Order be uploaded on the website of this Court.

18. As observed above, the Expert Committee report was filed before the Court, on perusal whereof the Court found that certain information was sought by the members of the Expert Committee from the respondent no.2, however, the said information was not furnished. Since it was stated on behalf of the respondent no.2 that information sought by the Expert Committee from the respondent no.2 may have bearing on the case and will assist this Court in reaching to an appropriate conclusion in respect of the issue as to at whose end

technical glitch, if any, had occurred, the Court *vide* its order dated 26.08.2025 requested the Expert Committee to accommodate the officers from the respondent no.2 to be present in person along with documents sought by the Expert Committee on 02.09.2025. It was also directed that one representative, each of the petitioner and the respondent no.2, shall be present at the time the Expert Committee would interact with the officers of the respondent no.2. The Court had issued these directions in its order dated 26.08.2025, which is extracted hereunder:-

> *"1. In compliance of the order dated 06.06.2025, the Expert Committee comprising of 2 Professors from IIT, Delhi has furnished the Expert Report dated 01.07.2025, which is annexed at page 544 of the paperbook.*
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> *2. We have perused the said Expert Report and heard Mr. Sandeep Sethi, learned senior counsel appearing for the petitioner and Mr. Amar Dave, learned senior counsel appearing for the respondent no.2/MSTC and Ms. Trivedi, learned senior counsel for respondent no.3.*
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> *3. From a perusal of the Expert Report, particularly, paragraph before the final conclusion, it appears that certain information was sought by the members of the Expert Committee from respondent no.2/MSTC. It appears that such information, for whatsoever reason, was not furnished except for some documents as submitted by Mr. Dave, learned senior counsel for respondent no.2/MSTC.*
>
> *4. The information sought may have a bearing on the case and assist this Court in reaching some conclusion as to at which end the technical glitch, if any, had occurred.*
>
> *5. Accordingly, the Expert Committee is requested to accommodate officers from respondent no.2/MSTC to be present in person alongwith documents sought by the members of the Expert Committee on 02.09.2025 at 4:00 pm. As also, one representative each of petitioner and respondent no.2, shall be present at that time, when Expert committee is interacting with officials of respondent no.2/MSTC.*

6. It is made clear that representatives of petitioner and respondent no.3 shall assist only if required by the members of the Expert Committee and not otherwise.

7. The remuneration of the members of the Expert Committee is fixed at Rs.1 lakh each which shall be paid by respondent no.2/MSTC on the same day i.e., 02.09.2025, when the Expert Committee holds the meeting.

8. If there is any inconvenience in respect of date/time, the members of the Expert Committee may change it according to their convenience.

9. The Expert Committee, shall render the supplementary report and submit the report with the Registrar General of this Court within ten days from 02.09.2025.

10. List on 23.09.2025."

19. In pursuance of the said order dated 26.08.2025, the Expert Committee submitted its supplementary report, which was forwarded to the Registrar General of this Court to be placed on record of these proceedings *vide* letter dated 12.09.2025 of the Assistant Registrar, IIT, Delhi.

20. A perusal of the said supplementary report reveals that the Expert Committee, on a further analysis of the logs, portal behaviour and the poor network conditions, concluded that the petitioner was not able to prove that the server of the respondent no.2 had any fault. It also concluded that the petitioner's logs on their main machine could not be retrieved and that logs on the petitioner's side of the backup laptop did not point to any server-side error. The Expert Committee also concluded that the video of the backup laptop captured by the petitioner did not capture the whole screen, specifically the upper half was not captured where error regarding the second step of the login process was shown.

21. The Expert Committee, therefore, summarised that there was thus a high probability that there was an error because after the mouse moved in the

petitioner's window, the page transitioned to the index page, which is the normal behaviour if the second step is not successful, and error is acknowledged. The Expert Committee ultimately concluded that it was a failed login attempt; however, nothing can be said about the rest of the login attempts on the main and backup laptop, supposedly failed because of lack of evidence. The summary, which forms part of the supplementary report dated 12.09.2025 furnished by the Expert Committee is extracted hereinbelow:-

> *"(a) The client (Anandam Minerals) was not able to prove that the server (MSTC) had a fault. The client-side logs on their main machine (HP Desktop) could not be retrieved. The logs on the client side of the backup laptop did not point to any server-side error. The video of the backup laptop captured by the client does not capture the whole screen. Specifically, the upper half was not captured where an error regarding the second step of the login process is shown. There is thus a high probability that there was an error because after the mouse moved in the client window, the page transitioned to the index page. which is the behavior if the second step is not successful and the error is acknowledged.*
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> *(b) The server (MSTC) could not prove that there was a network delay on the client side. A network delay will lead to a long login process: however, as per MSTC's own admission, the entire process still works when the bandwidth is as low as 5 KBps. Clearly, the client was connected to the net otherwise the browser would have shown a message of the form "No Network Connection" or "Site cannot be reached". Even with minimal connectivity, the process should have worked.*
>
> *(c) The only substantive evidence is the video submitted by the client (Anandam Minerals) of the backup laptop. Here the login process is not crossing Step 2 and the error message is not visible because the video does not capture the full screen. We can clearly say that this was a failed login attempt; however. nothing can be said about why the rest of the login attempts on the main and backup laptops supposedly failed because of lack of evidence."*

22. Thus, as we have already noticed, the nature of the issue raised in this petition is highly technical, and accordingly, the Expert Committee was

appointed to elicit the correct facts. The Expert Committee, on a thorough analysis of all the relevant factors, including the technical aspects, has concluded in its final report that the petitioner was not able to prove that the server of the respondent no.2 had any fault. Through the process conducted by the experts, the petitioner's side logs on their main machine could not be retrieved, and further that the logs on the petitioner's side of the backup laptop did not point to any server-side error. It is also very relevant to mention, as summarised by the experts in their reports, that the video of the backup laptop captured by the petitioner did not capture the whole screen; specifically the upper half of the screen was not captured where the error regarding the second step of the login process would have been shown. Accordingly, the experts have concluded that there was a high probability that there was an error because after the mouse moved in the petitioner's window, the page transitioned to the index page, which is the normal behaviour if the second step is not successful and error is acknowledged.

23. Thus, in the opinion of the experts, if any fault is attributable for failed login by the petitioner, it is attributable to the petitioner and not to the server of the respondent no.2, where the e-auction process had taken place.

24. It has been argued on behalf of the petitioner that the petitioner had wrongfully been deprived of placing the higher bid in comparison to the bid placed by the respondent no.3 and further that for any technical glitch, not permitting the petitioner to place its further bids would result in public loss, and therefore, the petitioner ought to be permitted to place its further bids. Learned senior counsel for the petitioner during the course of the hearing has even submitted that the petitioner is ready to furnish its bid to the extent of the floor price of 100%. In this view, submission is that it would be in the public interest to permit the petitioner to submit its bid. Reliance in this regard has been placed on behalf of the petitioner upon a judgment of learned Single

Judge of High Court of Rajasthan, dated 29.05.2018 in the case of ***JSW Cement Limited v. State of Rajasthan &Ors.*** *[Civil Writ Petition No.12873/2017].* The petitioner has also placed reliance on a Division Bench judgment of High Court of Bombay at Goa, dated 04.02.2025, reported in *2025 SCC OnLine Bom 1831* titled ***Vedanta Ltd. v. State of Goa &Ors.*** while praying that the petitioner may be permitted to resume the auction from the stage when the technical glitch had occurred, which would best serve the public interest, as it would fetch the best price. Reliance in this regard has also been placed on the judgment dated 22.09.2023 of a Co-ordinate Bench of this Court in ***Emerson Measurement Systems and Solutions India Private Limited v. IOCL Pipepline Division &Ors.,*** *[W.P.(C) No.12536/2023].*

25. It has also been argued on behalf of the petitioner that any decision in respect of alienation of natural resources, which will include minerals as well, should be backed by a social or welfare purpose and further, the precious and scare natural resources should not be alienated for commercial pursuits of profit maximising private entrepreneurs, and therefore, any such action on the part of the State Authorities should lead to competition with a view to maximising the revenue otherwise such action may be violative of Article 14 of the Constitution of India. Reliance in this regard has been placed by learned senior counsel for the petitioner on a reference answered by the Hon'ble Supreme Court under Article 143 of the Constitution of India in the case of ***Natural Resources Allocation, In Re, Special Reference No. 01/2012*** reported *in (2012) 10 SCC.*

26. On the aforesaid counts, it has been argued on behalf of the petitioner that the respondent nos.1 and 2 should be directed to permit the petitioner to resume the auction process from the stage the technical glitch was found, which prevented the petitioner from furnishing its further bids in response to and answer to the bid submitted by the respondent no.3.

27. The prayers made in the writ petition, however, have been vehemently opposed on behalf of the respondents, on whose behalf it has been argued *inter alia* that in the absence of any material to establish that a technical glitch had occurred at the end of the server of the respondent no.2, the submission of the petitioner is unfounded. It has also been contended on behalf of the respondents that it is the failure at the end of the petitioner which resulted in the petitioner not being able to furnish its bid, and therefore, non-submission of the bid, if any, by the petitioner is not attributable to the respondents. In these circumstances, the contentions raised on behalf of the petitioner are absolutely untenable.

28. Placing reliance on the judgment of a Co-ordinate Bench of this Court in ***Jindal Steel & Power Ltd. v. Union of India*** *[2023 SCC OnLine Del 4401]*, it has been argued that the issue raised in the petition is so highly technical that no decision in these proceedings under Article 226 of the Constitution of India is permissible. The respondents are categoric in their submission that if such a continuous process of auction is permitted, no auction process would ever be complete, which would be harmful for the public interest. It is also the submission on their behalf that there were other bidders, however none faced any so called technical glitch at the end of the server of the respondent no.2, and therefore, the contention of the petitioner cannot be accepted that it is on account of the technical glitch that the petitioner was prevented from furnishing further bids in the auction process.

29. Having considered the competing submissions made by learned senior counsel/counsel representing the parties and gone through the records available before us on this petition, including the reports dated 01.07.2025 and 12.09.2025 submitted by the Expert Committee, who are from IIT, Delhi, we are unable to align ourselves with the submissions and prayers made on behalf of the petitioner. This Court in ***Karix Mobile Private Limited v. Union of***

India &Ors. *[2025 SCC OnLine Del 1959]*, has held that in such matters, this court lacks the wherewithal to adjudicate the same.

30. Though certain objections have been raised by the petitioner to the second report of the Expert Committee dated 12.09.2025, however having regard to the nature of technical knowledge required to reflect upon such report or objections, we are of the opinion that the Courts in such situations where there is a clear finding given by the Experts in their report, should ordinarily go by the report of the Experts. We have already stated above that the Experts in their report dated 12.09.2025 have clearly concluded that the petitioner was not able to prove that the server of the respondent no.2 had any fault. It is also to be noticed that despite going into detailed analysis, the Experts found that the petitioner's side logs on their main machine could not be retrieved and that the logs on the petitioner's side of the backup laptop did not point to any server-side error. It is also the opinion of the Experts that the video of the backup laptop captured by the petitioner did not capture the whole screen, specifically, the upper half was not captured, where the error regarding the second step of the login process was shown. If a video of the backup laptop, had captured the whole screen, some light could have been thrown on the contentions made by the petitioner, however it is not known as to why the said video did not capture the whole screen especially the upper half of the screen where the error in respect of the second step of login process would have also been captured. The Experts have thus opined that there is a high probability that there was an error because after the mouse moved in petitioner's window, the page transitioned to the index page, which is the normal behaviour if the second step is not successful and the error is acknowledged.

31. We have already expressed our opinion that, in the facts of the case, we have no option but to go by what the Experts have reported and in the absence

of any glitch attributable to the server of the respondent no.2 – MSTC, we are unable to find any force in the submissions made by the learned senior counsel for the petitioner. Our view finds support from the judgment of the Division bench of this Court in ***Jindal Steel & Power Ltd.****(supra)*, special leave petition against which was also dismissed by the Hon'ble Supreme Court *vide* order dated 18.10.2023 (Special Leave to Appeal (Civil) No. 23313/2023).

32. As to the submission made on behalf of the petitioner that if no opportunity is given to the petitioner to participate in the further process of auction there will be loss to public exchequer, we may refer to the judgment of Hon'ble Supreme Court in ***Prakash Asphaltings & Toll Highways (India) Ltd. v. Mandeepa Enterprises*** *[2025 SCC OnLine SC 1959]*, wherein ***CIDCO v. Shishir Realty Private Limited*** *[(2022) 16 SCC 527]* has been quoted with approval where it has been observed that mere possibility of more money in public coffers does not in itself serve public interest. Para 39 of the said decision is extracted hereinbelow:-

> *"**39.** A three-Judge Bench of this Court in CIDCO v. Shishir Realty Private Limited[7], observed that when a contract is being evaluated, the mere possibility of more money in the public coffers does not in itself serve public interest. This Court held as follows:*
>
> > *61. When a contract is being evaluated, the mere possibility of more money in the public coffers, does not in itself serve public interest. A blanket claim by the State claiming loss of public money cannot be used to forego contractual obligations, especially when it is not based on any evidence or examination. The larger public interest of upholding contracts and the fairness of public authorities is also in play. The courts need to have a broader understanding of public interest, while reviewing such contracts."*

33. Even otherwise, as held by Hon'ble Supreme Court in ***Jagdish Mandal v. State of Orissa*** *[(2007) 14 SCC 517]*, judicial review of any administrative

action has been devised to prevent arbitrariness, irrationality, unreasonableness, bias and *mala fides*. ***Jagdish Mandal*** *(supra)*clearly lays down that in a tender or contractual matter, the Courts, in exercise of the 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,

34. It has been held in ***Jagdish Mandal*** *(supra)* by Hon'ble Supreme Court that if the answers to the aforesaid two questions are in negative, there should be no interference under Article 226 of the Constitution of India. Para 22 of ***Jagdish Mandal****(supra)* is extracted hereinbelow:-

> *"**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 bona fide 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 licences, dealerships and franchises) stand on a different footing as they may require a higher degree of fairness in action."

35. In respect of the submission of the petitioner that had the petitioner been permitted to take part in the further auction process from the stage the alleged technical glitch had occurred the process would have fetched more money to the state coffers, reference may also be had to another judgment of Hon'ble Supreme Court in ***Subodh Kumar Singh Rathore v. Chief Executive Officer*** *[2024 SCC OnLine SC 1682]*, which has been quoted with approval in ***Prakash Asphaltings & Toll Highways (India) Ltd.*** *(supra)*. Para 40 of ***Prakash Asphaltings & Toll Highways (India) Ltd.*** *(supra)*is relevant to be extracted, which reads as under:-

*"**40.** The above proposition has been followed by another three-Judge Bench of this Court in the recent case of Subodh Kumar Singh Rathore v. Chief Executive Officer[8], when it examined the concept of public interest in administrative decisions relating to award of contracts. This Court held that even assuming for a moment that there was technical fault in the tender, which if rectified had the possibility of generating more revenue, the same by no stretch could be said to be a cogent reason for concealing an already existing tender. This Court highlighted the importance of maintaining the sanctity of tenders in governmental procurement processes. Public tenders are the cornerstone of governmental procurement processes, being competitive and ensuring fairness and transparency in the allocation of public resources. Public tenders are designed to provide a level playing field for all potential bidders, fostering an environment where competition thrives. The integrity of this process ensures that public projects and resources are delivered efficiently and effectively, benefiting the society at large. Therefore, sanctity of public tenders and contract is a fundamental principle that underpins the stability and predictability of legal and commercial relationships. Infact this Court put in a word of caution that considerations of public interest should not be narrowly confined to financial aspect only."*

36. For the discussions made and reasons given above, we do not find any good ground to interfere in this writ petition, which is hereby dismissed. Consequently, the interim order(s), if any, granted earlier shall stand discharged.

37. The interim application(s), if any, shall also stand(s) disposed of in the aforesaid terms.

38. There will be no orders as to costs.

(DEVENDRA KUMAR UPADHYAYA)
CHIEF JUSTICE

(TUSHAR RAO GEDELA)
JUDGE

DECEMBER 16, 2025/*S.Rawat*