



THE GAUHATI HIGH COURT
(THE HIGH COURT OF ASSAM, NAGALAND, MIZORAM & ARUNACHAL PRADESH)

Writ Petition (C) No. 1218/2026

M/s Innovatiview India Limited, a company incorporated under the Companies Act, 2013, having its registered office at 37, 3rd Floor, Shanti Vihar, Karkardooma, New Delhi - 110092, through its authorized representative Ashish Painuly, son of Diwakar Painuly, aged about 27 years, resident of 143, Model Colony, Araghar, Dehradun, Uttarakhand - 248001

.....Petitioner

-Versus-

1. The Election Commission of India, represented by its Secretary, Nirvachan Sadan, Ashoka Road, New Delhi - 110001.
2. The Chief Electoral Officer Assam, having its office at Block-C 4th Floor, Assam Secretariat, Dispur Guwahati - 781006.

3. The Additional Chief Electoral Officer Assam, having its office at Block-C 4th Floor, Assam Secretariat, Dispur Guwahati - 781006.
4. The State of Assam, represented by the Chief Secretary Government of Assam, Assam Secretariat, Dispur, Guwahati - 78100

.....Respondents

BEFORE
HON'BLE MR. JUSTICE MANISH CHOUDHURY

Advocates :

Petitioner : Mr. A. Saxena, Advocate
Mr. N. Gautam, Advocate

Respondent nos. 1 to 3 : Ms. S. Katakey, SC, ECI

Respondent no. 4 : Mr. S.R. Baruah, Jr. Govt. Advocate

Date on which judgment is reserved : N/A

Date of pronouncement of judgment : 27.03.2026

Whether the pronouncement is of the
Operative part of the judgment? : N/A

Whether the full judgment has been
Pronounced ? : Yes

JUDGMENT [ORAL]

The instant writ petition under Article 226 of the Constitution of India is preferred by the petitioner to assail a Tender Notice bearing no. ELE.13/2026/03 dated 06.02.2026 for allotment of the contract of 'Live Web Streaming for General Elections in Assam'. The Tender Notice was published by the Chief Electoral Officer, Assam & Additional Chief Secretary to the Government of Assam, Election Department [hereinafter also referred to as 'the Tendering Authority', at places, for ease of reference] whereby on-line bids through e-Procurement system were invited. When the Tender Notice was published on 06.02.2026, the last date and time of bid submission was mentioned as 02-30 p.m. on 27.02.2026. It was mentioned in the Tender Notice that the bid [Technical Bid] would be opened on-line on at 03-30 p.m. on 27.02.2026. It was specifically mentioned in the Tender Notice that due to urgency of the upcoming General Election to the Assam Legislative Assembly, the submission period of bids was made limited to fourteen days. The bidders were asked to view and download the Tender Document comprising all details and terms & conditions from the portal -www.assamtenders.gov.in. It was specified in the Tender Notice that pre-bid queries would be received up to 05-00 p.m. on 11.02.2026.

2. In Clause 2.1 : 'Scope of Work – Live Web Streaming' of the Tender Document, the complete Scope of Work is mentioned. As per the said clause, the Scope of Work has been divided into three packages : [i] Package 1 : Live web streaming of Polling Stations; [ii] Package 2 : Live web streaming of PTZ Camera / GPS for Flying Squad Vehicles / Static Surveillance Vehicles [FSV/SSV]; and [iii] Package 3 : Live Web Streaming of Check posts across Assam. In Clause 3 of the Tender Document, the minimum eligibility criteria were laid down. The agencies

submitting their proposals must meet the minimum eligibility criteria to qualify for further technical evaluation.

3. As the subject-matter of challenge in the instant writ petition is limited to three specific minimum eligibility criteria, for the purpose of brevity, the discussion is, at first, kept limited to the said three criteria.
4. For ready reference, the said three eligibility criteria are extracted hereinbelow :-

3. Minimum Eligibility Criteria

The agencies submitting their proposals must meet the following minimum eligibility criteria to qualify for further Technical Evaluation :

3.1. Minimum Eligibility Criteria

	Eligibility Criteria	Documents Required
10	The bidder must have executed live web streaming of check post operations involving a cumulative total of not less than 2,000 cameras at check posts in India for any CEO Office or any Government Department / PSUs / Government Agencies, on behalf of the Election Commission of India, during the last two financial years [FY : 2023-24 and FY : 2024-25].	Copies of the Purchase Order / Work Order along with the corresponding Work Completion Certificate shall be submitted. The documents must clearly indicate the nature and volume of work executed. Only works executed for Central or State Government Departments, Public Sector Undertakings [PSUs], or other Government-owned or Government-controlled bodies shall be considered.
11	The bidder must have successfully implemented a minimum of three [03] projects, each involving at	Copies of the Purchase Order / Work Order along with the corresponding Work Completion Certificate shall be

	least 5,000 vehicles, involving Vehicle Mounted PTZ Cameras or GPS devices for a Real-Time Vehicle Tracking System with centralized monitoring software during elections in India for any CEO Office or any Government Department / PSUs / Government Agencies, on behalf of the Election Commission of India, during the last two financial years [FY : 2023-24 and FY : 2024-25].	submitted. The documents must clearly indicate the nature and volume of work executed. Only works executed for Central or State Government Departments, Public Sector Undertakings [PSUs], or other Government-owned or Government-controlled bodies shall be considered.
12	The bidder should have executed at least three full-scale State-level orders, each with an order value of more than Rs. 1 crore, for live web streaming of elections in India using IP-based HD CCTV camera systems with audio and video from multiple locations, on behalf of the Election Commission of India, during the last two years from the date of issue of the Tender [2023-24 and 2024-25]	Copies of the Purchase Order / Work Order along with the corresponding Work Completion Certificate shall be submitted. The documents must clearly indicate the nature and volume of work executed. Only works executed for Central or State Government Departments, Public Sector Undertakings [PSUs], or other Government-owned or Government-controlled bodies shall be considered.

4. Assailing the three eligibility criteria, the petitioner has preferred the instant writ petition.
5. I have heard Mr. A. Saxena, learned counsel assisted by Mr. N. Gautam, learned counsel for the petitioner; Ms. S. Katakey, learned Standing Counsel, Election Commission of India [ECI] for the respondent nos. 1, 2 & 3; and Mr.

S.R. Baruah, learned Junior Government Advocate, Assam for the respondent no. 4.

6. Mr. Saxena, learned counsel appearing for the petitioner has submitted that Clause 2.1 : 'Scope of Work - Live Web Streaming' has been divided into three packages whereas in a number of elections in other States like Uttar Pradesh, Kerala, etc., such division into separate packages was not done. The petitioner has contended that it has successfully completed works of similar nature in a number of States and in States area-wise bigger than Assam. He has further submitted that by incorporating Clause 3.1.10, Clause 3.1.11 & Clause 3.1.12 in Clause 3.1 : 'Minimum Eligibility Criteria', the Tendering Authority has set the stringent, restrictive and onerous eligibility criteria for bidders arbitrarily without having any rational nexus with the Scope of Work. Mr. Saxena has contended that in Clause 3.1, thirteen nos. of separate eligibility criteria were laid down for the bidders to meet and out of the thirteen nos. of eligibility criteria, the petitioner fulfills ten of them. Due to such stringent and restrictive eligibility criteria containing Clause 3.1.10, Clause 3.1.11 & Clause 3.1.12, the petitioner would be ousted from participation, thereby, making the participation in the tender process a limited one.

- 6.1. Mr. Saxena has further submitted that when the petitioner sought clarifications on and relaxation of the said three eligibility criteria by e-mail on the subject, 'pre-bid clarification' by giving proper justifications as to why such criteria were not required for the job in Assam. Though the Tendering Authority showed to have considered them but such consideration was not with due application of mind. Though reasons were assigned for not making any changes in respect of two of the three eligibility criteria, but no reason was assigned by the Tendering Authority for not making any change in respect of the eligibility criterion incorporated in Clause 3.1.10 and the same goes to show that the Tendering Authority had proceeded with the matter with a closed mind. The petitioner

waited for an explanation / clarification to its queries till 26.02.2026. When no changes were brought in respect of the said three minimum eligibility criteria till 26.02.2026, the petitioner is constrained to approach this Court to assail the said three minimum eligibility criteria on the premise that the same are stringent, restrictive and onerous and are incorporated in the Tender Document only to limit the competition and to benefit parties of choice.

7. Ms. Katakey, learned Standing Counsel, ECI has submitted that the issues raised by the petitioner in this writ petition regarding relaxation of the said three minimum eligibility criteria were also raised by the petitioner during pre-bid queries. All the queries made by the petitioner with regard to the said three minimum eligibility criteria were duly answered. The Tendering Authority also responded to all the queries received from other prospective bidders. Ms. Katakey has submitted that during the time period from 06.02.2026 to 11.02.2026, which was kept open for receipt of queries from the prospective bidders, as many as forty nos. of queries were received from the bidders and all those forty nos. of queries were duly considered and comments were given on all of them. The Tendering Authority had uploaded the same in the designated portal on 13.02.2026. Ms. Katakey has further submitted that after 13.02.2026, no further query was received from the petitioner till filing of the writ petition.

- 7.1. As regards Clause 3.1.10, Clause 3.1.11 & Clause 3.1.12, Ms. Katakey has submitted that the conditions therein were formulated by taking into consideration all the relevant factors required to be taken into consideration for smooth conduct of the General Election in all the 126 nos. of Legislative Assembly Constituencies [LACs] in Assam as at that point of time, it was contemplated that the General Election to the State Legislative Assembly would be held in one phase. She has further contended that a comparison cannot be brought with the General Elections held in other States with the General Election to be held in the State of Assam as each State has unique features,

issues, bottleneck and problems. Ms. Katakey has submitted that the reasons behind formulation of the clauses have been duly adverted to in the affidavit-in-opposition filed by the Tendering Authority.

- 7.2. Ms. Katakey has submitted that the petitioner has a tendency to assail terms and conditions of the tender document published for assignment of contract for live coverage of election. The petitioner had earlier challenged the tender conditions incorporated in e-Tender dated 03.03.2026 published for selection of live webcaster for the election to be held in the State of Tamil Nadu in 2026 and the tender process initiated for live web streaming of election to be held in the State of West Bengal. The writ petition, W.P. no. 10973/2026 preferred by the petitioner before the High Court of Judicature at Madras; and the writ petition, WPO no. 89/2026 preferred before the High Court at Calcutta were dismissed. The appeal preferred against the judgment rendered in WPO no. 89/2026 was also dismissed. After being unsuccessful in those endeavours, the petitioner has preferred the instant writ petition. The copies of the aforementioned judgments have been placed by Ms. Katakey in support of her submissions.
8. I have duly considered the submissions of the learned counsel for the parties and have also gone through the materials brought on record by the parties through their pleadings.
9. It has been brought to the notice of the Court that in the meantime, by a Notification published in the Assam Gazette on 16.03.2026, the Election Commission of India has declared election in all the Legislative Assembly Constituencies [LACs] in the State of Assam to elect Members to the Legislative Assembly of the State. As per the said Notification, the polling will be held in one phase on 09.04.2026.

10. As submitted above, it is noticed that in response to the forty nos. of pre-bid queries received after publication of the Tender Notice dated 06.02.2026, the Tendering Authority responded to each of the queries received from the prospective bidders made in connection with the subject, 'pre-bid queries'. The replies to the pre-bid queries were made of a Report bearing no. ELE.13/2026/76 dated 12.02.2026 and the Report was uploaded in the designated portal on 13.02.2026 for the knowledge of the prospective bidders.
11. As the assail in this writ petition is confined to Clause 3.1.10, Clause 3.1.11 & Clause 3.1.12 in Clause 3.1 : 'Minimum Eligibility Criteria' of the Tender Document in respect of which the petitioner had made the queries, it would be apt to extract relevant excerpts from the Report dated 12.02.2026 pertaining to those clauses. For ready reference, the queries made by the petitioner in respect of Clause 3.1.10, Clause 3.1.11 & Clause 3.1.12 in Clause 3.1 : 'Minimum Eligibility Criteria' of the Tender Document and the Reply by the CEO is quoted hereinbelow :-

Query Related to Section no.	Pre-Bid Request	Reply by CEO Assam
Minimum Eligibility Criteria, 3.1.10	Kindly consider revising the eligibility criterion as proposed : The bidder must have executed live web streaming of check post operations involving a cumulative total of not less than 100 cameras at check posts in India for any CEO Office or any Government Department / PSUs / Government Agencies, on behalf of the Election	No Changes

	Commission of India, during the last two financial years [FY : 2023-24 and FY : 2024-25].	
Minimum Eligibility Criteria, 3.1.11	<p>Kindly consider revising the eligibility criterion as proposed :</p> <p>The bidder must have successfully implemented a minimum of two [02] projects, each involving at least 500 vehicles, involving Vehicle Mounted PTZ Cameras or GPS devices for a Real-Time Vehicle Tracking System with centralized monitoring software during elections in India for any CEO Office or any Government Department / PSUs / Government Agencies, on behalf of the Election Commission of India, during the last two financial years [FY : 2023-24 and FY : 2024-25].</p>	<p>Kindly clarify that the condition under Minimum Eligibility Criteria – Point No. 11 requires experience in either GPS devices or Vehicle Mounted PTZ Camera systems.</p> <p>The condition stipulates that the bidder must have successfully implemented a minimum of three [03] projects, each involving at least 5,000 vehicles, using Vehicle Mounted PTZ Cameras or GPS devices for a Real-Time Vehicle Tracking System with centralized monitoring software during elections in India for any CEO Office or any Government Department / PSUs / Government Agencies, on behalf of the Election Commission of India, during the last two financial years [FY : 2023-24 and FY : 2024-25].</p> <p>The existing clause already provides flexibility by allowing experience in either GPS or PTZ systems.</p>

		Therefore, no changes.
Minimum Eligibility Criteria, 3.1.12	<p>Kindly consider revising the eligibility criterion as proposed :</p> <p>The bidder should have executed at least One full-scale State-level order, with an order value of more than Rs. 1 crore, for live web streaming of elections in India using IP-based HD CCTV camera systems with audio and video from multiple locations, on behalf of the Election Commission of India, during the last two years from the date of issue of the Tender [2023-24 and 2024-25].</p> <p>Joint Venture or Local Election Body experience not allowed. In case of consortium, only prime bidder experience allowed.</p>	<p>As the State of Assam is a medium-sized State with complex terrain, a substantial number of polling stations, and extensive logistical and operational requirements, the scale and complexity of election operations are not comparable with those of Union Territories. Accordingly, the eligibility criterion has been prescribed to ensure that the bidder has demonstrated capability in executing large-scale State-level election web streaming projects. The proposed amendment to include UT-level experience is not justified in view of the required scale and complexity of operations.</p> <p>Therefore, no change.</p>

12. From the replies of the Tendering Authority commented specifically on the said three clauses, it is evident that the Tendering Authority did not find any reason to change or revise the minimum eligibility criteria set forth in Clause 3.1.10, Clause 3.1.11 & Clause 3.1.12. As contended by Mr. Saxena, learned counsel for the petitioner, reasons to not bring any changes in the minimum eligibility criteria set forth in Clause 3.1.11 & Clause 3.1.12 were assigned in the Report dated 12.02.2026 and no reason was signed in respect of Clause 3.1.10. Mr. Saxena has submitted that in a tender process initiated for the same kind of works for the General Election for Kerala, a restrictive condition was found to

have been included in the Tender Document and the same was revised after receipt of an application for revision of the said condition during the pre-bid stage finding the request of the petitioner rational and reasonable. But the Tendering Authority in respect of the subject, 'pre-bid queries' did not relax the minimum eligibility criteria without any application of mind.

13. It is pertinent to mention that as per Tender Notice dated 06.02.2026, the last date of submission of bid was originally fixed as 27.02.2026. The last date of bid submission was extended to 05.03.2026. By a Corrigendum Notice published on 28.02.2026, certain changes in Clause 20.2 which provided for evaluation process of the bids, have been made.
14. In the counter affidavit filed on behalf of the respondent nos. 1, 2 & 3, it is averred that the petitioner has failed to fulfill the minimum eligibility criteria laid down in Clause 3.1.10, Clause 3.1.11 & Clause 3.1.12 of the Tender Document. It has been asserted that apart from failing to meet the eligibility criteria laid down in the said three clauses viz. Clause 3.1.10, Clause 3.1.11 & Clause 3.1.12 of the Tender Document, the petitioner has also failed to fulfill the minimum eligibility criterion set forth in Clause 3.1.3. With regard to documents submitted by the petitioner in support of experience with regard to Clause 3.1.10, it is averred that the petitioner had submitted a Work Order related to non-live CCTV cameras installed at inter-State barriers/entry points, involving only 134 cameras [2 cameras at 67 locations], which is significantly less than the minimum requirement of 2,000 cameras specified in the Tender Document. The petitioner did not submit any Work Order/Work Completion Certificate for the vehicle mounted PTZ cameras or GPS devices for a Real-Time Vehicle Tracking System for election purposes, as required under Clause 3.1.11. On examination of the Work Orders and Work Experience Certificates submitted by the petitioner for fulfilling the minimum eligibility criteria contained in Clause 3.1.3, it is found that the petitioner did not have experience of executing one

election work of value Rs. 60 crores or two election works of cumulative value Rs. 75 crores or three elections of cumulative value Rs. 90 crores as required under the tender conditions.

15. The Tendering Authority has asserted that the criteria which are set forth as the minimum eligibility criteria in the Tender Document are intrinsically linked to the complexity of the assignment which extends beyond mere live web streaming and involves an integrated framework requiring real-time streaming from multiple locations, coordination with surveillance systems at critical points such as check posts, deployment and monitoring of vehicle-mounted systems for field enforcement teams, real-time tracking of such units and establishment of centralized command and control mechanism for continuous supervision and prompt response during a strictly time-bound election period. Asserting so, the Tendering Authority has found and considered the minimum eligibility requirements set forth in Clause 3 as reasonable, rational and directly linked to the object sought to be achieved for efficient, timely and seamless conduct of the entire election.
16. It is further averred that the eligibility criteria prescribed in the Tender Document have been formulated after conscious application of mind by taking into account the nature, scale and sensitivity of the work, particularly in relation to live web streaming and allied surveillance mechanisms during the election process. After due evaluation, the Tendering Authority has formulated the criteria and it is asserted that the criteria are reasonable, proportionate and necessary to ensure reliability, seamless coordination, system integrity and effective risk management to facilitate smooth and efficient coverage of the election process.
17. It is further asserted that the Tendering Authority i.e. the Chief Electoral Officer, Assam is the highest authority to conduct the election in the State of

Assam. The terms and conditions of the Tender Document have been formulated by the Tendering Authority by taking into consideration the terrain, infrastructure, accessibility, security considerations and logistical issues. The Tendering Authority has asserted that since the State of Assam presents distinct and complex challenges, including extensive hilly terrain, forest areas, riverine belts, char [sandbar] regions, remote border locations and areas with limited road and network connectivity, all of which bear significance and would impact in planning and execution of the election process, all the terms and conditions including the minimum eligibility criteria set forth in Clause 3.1.10, Clause 3.1.11 & Clause 3.1.12 were formulated keeping the aspects into consideration. As such, formulation of terms and conditions would always be different to the terms and conditions formulated for coverage of the election in other States of the country as each State has different terrain, security considerations, network connectivity, road connectivity, etc.

18. Responding to a contention of the petitioner to the effect that the eligibility condition of having work experience in providing call centre solution with minimum twenty agents and asset monitoring system is arbitrary, irrational and disproportionate in nature lacking rational nexus with the actual scope of the project, it has been reasoned that the eligibility condition requiring prior experience in providing call centre solution with a minimum of twenty agents and asset monitoring system to Government / Public Sector Undertakings within the last five years has been incorporated after due consideration of past experience and the specific operational requirements of election-related projects. It is stated that the said requirement is founded on the practical experience of the Tendering Authority in execution of similar large scale and time sensitive election assignments. Previous election processes have demonstrated that had integrated call centre mechanism along with a robust asset monitoring system is indispensable for ensuring real-time coordination, incident response, and effective supervision of field operations. The

requirement of a minimum twenty-agent call centre is specifically intended to ensure that the selected bidder possess adequate manpower and demonstrated capability to handle high-volume concurrent communications and issue resolution in a time-bound and high-pressure election environment.

19. The Tendering Authority has clarified that the scope of the tender is not limited to mere live web streaming or surveillance monitoring. The assignment involves a comprehensive and integrated operational framework requiring seamless coordination between multiple components, including live streaming feeds, surveillance inputs from various fields operation, vehicle traffic system, and enforcement units. It is the view of the framers of the Tender Document that in such a scenario, a dedicated and experience call centre set up is critical for achieving, processing and responding to real-time inputs, complaints, alerts, technical issues arising during an election process. Additionally, the requirement of prior experience in asset monitoring system is equally essential, as the project entails deployment, tracking, management of multiple field-level assets, including mobile surveillance units, vehicle-mounted systems, and other technical infrastructures. Real-time monitoring and management of such assets is crucial to ensure accountability, operation efficiency, and timely response to any contingencies. The sufficiency of experience claimed by the petitioner in election web streaming and surveillance projects, in the absence of experience of providing call centre solution and asset monitoring, as per the Tendering Authority, is not sufficient for the project.
20. It is claimed by the Tendering Authority that the eligibility condition prescribed in Clause 3.1.10 requiring prior experience of live web streaming of check posts operation involving cumulative deployment of not less than 2,000 cameras at check posts in India during the last two financial years has been stipulated with a clear and rational objective to ensure the security, integrity and safety of the election process. The reason assigned for incorporating the clause is that the

check posts constitute a critical and sensitive component of the election surveillance mechanism. Effective surveillance of such check posts is not a peripheral or limited function, but a core requirement for maintaining the sanctity of the electoral process. The requirement of large-scale deployment experience, that is, not less than 2,000 cameras is based on the necessity of ensuring that the bidder possesses proven capability to handle high-density, geographically dispersed, and real-time surveillance operations without failure. Deployment of 100 cameras, as contended by the petitioner, is not sufficient for the scale, complexity and sensitivity involved in the project. Experience in limited or small-scale deployments cannot be equated with the capability required to execute a large-scale, integrated surveillance network spread across numerous check posts operating simultaneously and the eligibility conditions prescribed in Clause 3.1.10 has a direct nexus with the objective of ensuring election security and preventing malpractices.

21. The Tendering Authority has also assigned reasons behind incorporating the eligibility condition in Clause 3.1.11. It has reasoned that requirement of mandating prior experience of successful implementation of at least three projects, each involving not less than 5,000 vehicles equipped with vehicle-mounted PTZ cameras or GPS devices with centralized monitoring software has been prescribed after due application of mind and is directly linked to the critical objection of ensuring real-time tracking, monitoring, and security of vehicles engaged in election related duties, which are deployed for the transportation of highly sensitive materials including EVMs and VVPAT units. Ensuring safe, secure and uninterrupted movement of such vehicles is of paramount importance and any interception, diversion, or tampering with such vehicles would affect the integrity and credibility of the electoral process. A robust, scalable, and real-time vehicle tracking system, supported by vehicle-mounted PTZ cameras and GPS-enabled monitoring is found indispensable and it is for the said reason the requirement of prior experience involving large-scale

deployment, that is, 5,000 vehicles per project has been incorporated so as to enable the bidders that they have the capability to manage, monitor, coordinate a treat of vehicles simultaneous, across multiple locations, in real-time without any system failure. According to the Tendering Authority, such large-scale operational capability cannot be reasonably inferred from experience involving significantly smaller deployments, as suggested by the petitioner.

22. With regard to Clause 3.1.12, it has been projected that said eligibility criterion has been prescribed after due application of mind and in furtherance of the larger public interest of ensuring free, fair, peaceful elections. Past experience is considered to be a well-recognized and essential criterion and it enables the Tendering Authority not only to assess the technical and financial capability of a bidder, but also its reliability, consistency of performance, and ability to execute complex projects within stipulated time line.
23. The fact which has come to the notice of the Court, at first, is that after publication of the Tender Notice on 06.02.2026, the prospective bidders were allowed to send their queries up to 11.02.2026. As pre-bid query, the petitioner submitted its representation seeking clarification / relaxation in respect of Clause 3.1.10, Clause 3.1.11 & Clause 3.1.12. The queries were answered by the Tendering Authority in a Report dated 12.02.2026 and the Report containing those answers was duly uploaded in the designated portal on 13.02.2026 to enable the prospective bidders to view them. The Tendering Authority had, in clear words, answered that there would be no changes in so far as the minimum eligibility criteria already set forth in Clause 3.1.10, Clause 3.1.11 & Clause 3.1.12. As these answers were uploaded in the designated portal to be viewed by the prospective bidders, the petitioner despite being aware of the fact that its request for relaxation was answered in the negative, chose to wait till eleventh hour without mounting any challenge to the minimum eligibility criteria till 27.02.2026. The extension of date for bid submission was

only published on 27.02.2026. In a matter of such urgency, a prospective bidder like the petitioner if it was aggrieved by the response answered in the negative, should have made endeavour to take appropriate steps showing alacrity. But the silence maintained by the petitioner till 26.02.2026 is suggestive of a conduct indicating laxity on its part.

24. The law is settled as regards the scope and ambit of the power of judicial review in tender matters, more particularly, when challenge is made to the terms and conditions of a tender document.
25. In *Meerut Development Authority vs. Association of Management Studies and another*, [2009] 6 SCC 171, it is held that the terms of the invitation to tender cannot be open to judicial scrutiny because the invitation to tender is in the realm of contract. However, a limited judicial review may be available in cases where it is established that the terms of the invitation to tender were so tailor-made to suit the convenience of any particular person with a view to eliminate all others from participating in the bidding process. The bidders participating in the tender process have no other right except the right to equality and fair treatment in the matter of evaluation of competitive bids offered by the interested persons in response to notice inviting tenders in a transparent manner and free from hidden agenda. One cannot challenge the terms and conditions of the tender except on the above-stated ground, the reason being the terms of the invitation to tender are in the realm of contract. No bidder is entitled as a matter of right to insist the authority inviting tenders to enter into further negotiations unless the terms and conditions of notice so provided for such negotiations.
26. In *Michigan Rubber [India] Limited vs. State of Karnataka and others*, [2012] 8 SCC 216, the Hon'ble Supreme Court after a survey of a line of earlier decisions has 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.

24. 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"? and
- [ii] Whether the public interest is affected?

If the answers to the above questions are in the negative, then there should be no interference under Article 226.

27. In *Montecarlo Limited vs. National Thermal Power Corporation Limited*, [2016] 15 SCC 272, wherein the tender process involved award of a contract for development and operation of three coal mines, the Hon'ble Supreme Court of India has observed that tenders are floated and offers are invited for highly complex technical subjects. It requires understanding and appreciation of the nature of work and the purpose it is going to serve. For objectivity, bidders' expertise and technical capability and capacity falls for assessment by experts. In the matters of financial assessment, the tendering authority has to check and ascertain that technical ability and the financial credibility are workable and realistic or not. In tender processes of complex nature, technical expertise is necessary and parameters applied are

different. Its aim is to achieve high degree of perfection in execution and adherence to the time schedule.

28. In *Afcons Infrastructure Limited vs. Nagpur Metro Rail Corporation Limited*, [2016] 16 SCC 818, the Hon'ble Supreme Court has held that the owner or the employer of a project having authored the tender documents, is the best person to understand and appreciate its requirements and interpret its documents. The constitutional courts must defer to the said understanding and appreciation of the tender documents, unless there is mala fide or perversity in the understanding or appreciation or in the application of the terms of the tender conditions. Following the decision in *Afcons Infrastructure Limited* [supra], a three-Judge Bench of the Hon'ble Supreme Court in *Galaxy Transport Agencies, Contractors, Traders, Transports and Suppliers vs. New J.K. Roadways, Fleet Owners and Transport Contractors and others*, [2021] 16 SCC 808, has held that the authority that authors the tender document is the best person to understand and appreciate its requirements, and thus, its interpretation should not be second-guessed by a court in judicial review proceedings. Referring to the decisions in *Galaxy Transport Agencies* [supra] and *Afcons Infrastructure Limited* [supra], the Hon'ble Supreme Court in *Agmatel Private Limited vs. Resoursys Telecom and others*, [2022] 5 SCC 362, has disapproved interference in respect of the interpretation given by the tender inviting authority as regards the eligibility term. In *N.G. Projects Limited vs. Vinod Kumar Jain and others*, [2022] 6 SCC 127, the Hon'ble Supreme Court has observed that the court does not have the expertise to examine the terms and conditions of the present day economic activities of the State and this limitation should be kept in view. Courts should be even more reluctant in interfering with contracts involving technical issues as there is a requirement of the necessary expertise to adjudicate upon such issues.

29. In *Silppi Constructions Contractors vs. Union of India and another* [2020] 16 SCC 489, the Hon'ble Supreme Court of India has observed as under :-

20. The essence of the law laid down in the judgments referred to above is the exercise of restraint and caution; the need for overwhelming public interest to justify judicial intervention in matters of contract involving the State instrumentalities; the courts should give way to the opinion of the experts unless the decision is totally arbitrary or unreasonable; the court does not sit like a court of appeal over the appropriate authority; the court must realise that the authority floating the tender is the best judge of its requirements and, therefore, the court's interference should be minimal. The authority which floats the contract or tender, and has authored the tender documents is the best judge as to how the documents have to be interpreted. If two interpretations are possible then the interpretation of the author must be accepted. The courts will only interfere to prevent arbitrariness, irrationality, bias, mala fides or perversity.....

30. In the authorities cited above, the extent to which the power of judicial review in contractual matters has been made clear. A greater latitude is available to the tendering authority, be it the State or an agency or instrumentality of the State, in the matter of formulating the terms and conditions of a tender document. Only a limited scrutiny is available in a case where it is established that the terms and conditions of the invitation to tender are tailor-made for the benefit and convenience of a particular bidder and are incorporated in the tender document with a view to eliminate all others from the competition. In a tender process of complex or highly technical in nature where the bidders' expertise, technical capability and capacity, financial soundness are required to be assessed before award of contract, the tendering authority can formulate the terms and conditions in the tender document for the purpose of ascertaining that the bidders meet the eligibility criteria it requires to execute

the job which needs high degree of perfection in execution within a specified time schedule. The eligibility criteria are laid down in the tender document by the tendering authority which consist of domain experts or in consultation with experts in the field. When the terms and conditions in a tender document of a project of complex nature which requires high degree of expertise and technical and financial capability and capacity of the bidders to execute the work with precision within a specific time schedule, the constitutional court in exercise of the power of judicial review should exercise restraint and should be reluctant to interfere with such tender processes involving technical and financial expertise due to want of expertise on its part to examine the terms and conditions of the tender document of projects of such nature. It is the consistent view, as laid down in a line of decisions of the Hon'ble Supreme Court as well as of this Court, that the tendering authority who authored the tender document is best person to understand its requirements and interpret its documents. The terms and conditions of the Tender Document are formulated by taking into consideration all the relevant factors and with the assistance of domain experts. The constitutional courts must defer to the said understanding and appreciation of the tender document unless there are mala fide or perversity in the understanding or appreciation or in application of the terms and conditions of the tender conditions.

31. Whether a specific tender condition is restrictive or stringent can also be gauged from the level of participation in the tender process put to challenge. In the case in hand, other than the petitioner, three other bidders submitted their bids in response to the Tender Notice dated 06.02.2026. Out of the said three bidders, two of them met all the eligibility criteria set forth in the Tender Document. This Court is also conscious of the fact that the subject-matter of the tender process is a specialized one and there is limited players in the field who specialized in the nature of works, as mentioned in Clause 2.1 : 'Scope of Work – Live web streaming'. Thus, it cannot be said that the eligibility criteria

mentioned in the Tender Document are formulated in a tailor-made manner so as to select one particular bidder and to eliminate all others from participating in the tender process.

32. In a writ petition under Article 226 of the Constitution preferred to assail tender conditions as restrictive, the Court is to exercise restraint as the tender conditions are formulated after due deliberation and court's power of judicial review is only limited to the extent of judicial decision-making process and not to examine the tender conditions as a court of appeal.
33. Keeping in purview the settled principles with regard to the power of judicial review in writ proceedings involving challenge to the terms and conditions laying down the eligibility criteria for the bidders in the Tender Document, the reasons assigned by the Tendering Authority for incorporating the minimum eligibility criteria in Clause 3.1.10, Clause 1.1.11 & Clause 3.1.12, as adverted in paragraph 14 to paragraph 22 hereinabove, this Court finds no reason, much less good and sufficient reason, to reach a satisfaction that those minimum eligibility criteria have no rational nexus with the purpose of the project, that is, 'Live Streaming for General Elections in Assam' in three packages, as mentioned in paragraph 2 above.
34. In support of the case of the petitioner, Mr. Saxena has referred the decision of the Hon'ble Supreme Court of India in *Vinishma Technologies Pvt. Ltd. vs. State of Chhattisgarh and another*, 2025 SCC OnLine SC 2119. The decision in *Vinishma Technologies Pvt. Ltd. [supra]* has been rendered in respect of a tender process initiated for selection of a supplier of Sports Kits to the students of Government Primary School, Government Upper Primary Schools and Government High and Higher Secondary Schools in the State of Chhattisgarh. An eligibility criterion was put in the tender document to the effect that the bidders must have supplied sports goods worth at least 6.00 crores

[cumulative] to State Government agencies or Chhattisgarh in the last three financial years. As the eligibility criterion made participation in the tender limited to the State of Chhattisgarh only, the Hon'ble Supreme Court has found the said condition irrational as it had infringed upon the constitutional guarantees embedded in Article 14 and Article 19[1][g] of the Constitution. The restriction so imposed was found not justified as reasonable within the meaning of Article 19[6] of the Constitution as it amounted to closure of the market to outsiders without just cause. The ground on which the said eligibility criteria has been interfered with in Vinishma Technologies Pvt. Ltd. is not found applicable to the facts and circumstances of the case.

35. In view of the discussions made and for the reasons assigned hereinabove, this Court is of the considered view that the petitioner has not been able to make out a case for interference with the tender conditions set forth in Clause 3.1.10, Clause 3.1.11 & Clause 3.1.12 of the Tender Document. This Court has also taken note of the fact that even without challenge to the minimum eligibility criteria set forth in Clause 3.1.3, as submitted by the learned Standing Counsel, ECI, the petitioner had also failed to fulfill the said minimum eligibility criteria. Consequently, the writ petition having been found unmerited, stands dismissed. There shall, however, be no order as to cost.

Digitally signed by Rupam
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JUDGE

Comparing Assistant