

S/L 9
28.01.2026
Court. No. 25
suwayan

WPA 1406 of 2026

M/s. The New Supply Syndicate
Vs.
The State of West Bengal & Ors.

Mr. Subhrangshu Panda
Mr. Sumitava Chakraborty
Ms. Maria Rahaman
Ms. Iqra Rahaman

...for the petitioner.

Mr. Munmun Tewary
Mr. Pradip Pal

...for the State.

1. The affidavit-of-service filed by the learned counsel for the petitioner and the report filed by the learned counsel for the State are taken on record.
2. The petitioner has filed the present writ application challenging the Clause 3(vii) of the tender notice dated January 2, 2026 wherein the respondents/authority have mentioned the condition for the credential certificate as “working experience of similar nature (cooked diet supply) of work with minimum 200 bedded Government Hospitals/Government undertaking hospitals for two years in last five years”.
3. Learned counsel for the petitioner submits that the similar issue was raised before this Court in WP 21719 (W) of 2017 (Nurul Islam vs. State of West Bengal & Ors.) wherein the same condition was incorporated. When the matter was taken up for hearing by this Court, the respondents/authorities have agreed to issue a corrigendum and accordingly, this Court has passed an order disposing of the writ application directing the authorities to issue corrigendum specify the period of

time within which the period of three years specified in Clause 3.1 will be considered by the State as an eligibility condition.

4. Learned counsel for the petitioner submits that subsequent to the order dated August 21, 2017, the respondents/authorities issued corrigendum indicating the terms that the experience will be applicable any three years from 2011. Now all of a sudden in the present tender process, the authorities have illegally and arbitrarily have put the condition that the working experience of similar nature of work for two years in last five years. He submits that the working experience conditions to be modified and to be taken into consideration from 2011 and not for two years in last five years.
5. Learned counsel for the petitioner has relied upon the judgment in the case of ***Reliance Energy Limited & Anr. vs. Maharashtra State Road Development Corporation Limited & Ors.*** reported in **(2007) 8 SCC 1** and submits that if there is a vagueness or subjectivity in the norms it may result in unequal and discriminatory treatment. It may violate the doctrine of level playing field. Learned counsel for the petitioner further relied upon the unreported judgment passed by the co-ordinate Bench of this Court in *WPA 23931 of 2025* dated October 9, 2025 where the co-ordinate Bench of this Court has held that the Court could interfere if there is involvement of public interest or if the process

adopted or decision made by the authorities arbitrary or irrational.

6. *Per contra*, learned counsel appearing for the respondents/authorities has filed report by disclosing the order dated January 9, 2026 passed in WPA 29900 of 2025 (M/s. the New Supply Syndicate vs. State of West Bengal & Ors.) and submits that the similar petition was filed by the petitioner but subsequently, the petitioner has withdrawn the said application accordingly, this Court has dismissed the said writ application as withdrawn. The petitioner while withdrawing the said writ petition has not prayed for any liberty to file afresh. Now the petitioner has filed a fresh writ application which is not maintainable.
7. Learned counsel for the respondents further submits that in terms of the tender notice issued by the authorities altogether 10 firms have already participated and January 30, 2026 is the last date for opening of the technical bid. He further submits that the authorities are competent to put the tender conditions. The authorities have found that for the said tender an experience of the similar nature of the work with minimum 200 bedded Government Hospitals/Government undertaking hospitals for two years is required in last five years. The authorities have taken a decision after taking into consideration that the authorities have to see whether the firm who will be awarded the tender will be able to execute the work or not. He further submits that if the experience is taken into 2011 onwards and in between

five years if the firm has not executed any work there are several changes for the type of execution of the work then the petitioner will not be able to execute the work properly which could be awarded to the firm who has only completed three years from 2011 and not in last five years.

8. Learned counsel for the respondents submits that the petitioner has an experience only up to 2018 and as such the petitioner has filed the present petition claiming that the experience is to be taken into consideration from 2011. The petitioner had the knowledge that the tender will not be considered that the petitioner is not having the certificate for two years in the five years from the date of publication of the tender.
9. Heard the learned counsel for the respective parties perused the materials on record.
10. The respondents/authorities have issued the e-tender notice from the *bona fide* registered, eligible and resourceful agencies for supply of cooked diets to the indoor patient of ESI Hospital, Budge Budge. As per the credential certificate the working experience of similar nature (cooked diets supply) of work with minimum 200 bedded Government Hospitals/Government undertaking hospitals for two years in the last five years is required. The contention of the petitioner that on earlier occasion the respondents/authorities have taken the experience certificate from 2011 onwards. Now all of a sudden the authorities have changed the criteria and they are asking

the working experience certificate only for two years in last five years.

11. This Court finds that the authorities are the competent to decide the conditions of the contract. The Court while exercising writ jurisdiction ordinarily refrains itself from imposing its decisions over the decisions of the authorities. The awarded work has to be executed in terms of the contract and with the satisfaction of the respondents/authorities. In this case the required working experience is of similar nature of work for years in the last five years. This Court did not find any arbitrary action on the part of the respondents/authorities. The judgment relied by the petitioner is not applicable the facts and circumstances in the present case. The judgment relied by the petitioner with regard to the co-ordinate Bench in the year 2017 that order was passed on the ground that the respondents/authorities have agreed that they will issue the corrigendum by mentioning the experience from 2011. In the said case the co-ordinate Bench of this Court has not decided the matter on merit. This Court did not find any merit to interfere with the tender process.
12. WPA 1406 of 2026 is dismissed.
13. However, there shall be no order as to costs.
14. Urgent Xerox certified copy of this order, if applied for, be given to the parties upon compliance of all necessary formalities.

(Krishna Rao, J.)