

22.04.2026
Court No. 12
Item No. 04
Sandip

IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE

M.A.T. 132 of 2026
IA No : CAN 2 of 2026
In
W.P.A. 18939 of 2025

Shiba Prosad Banerjee & Anr.
-Versus-

The State of West Bengal & Ors.

Mr. Saptansu Basu, Sr. Adv.,
Mr. Swarup Paul,
Mr. Surya Maity,
Mr. Guru Saday Dutta,
Mr. Anish Roy

.....for the appellants

Mr. Raharshi Basu,
Mr. Bikash Goswami

....for the State.

1) The appellants are aggrieved by an order dated September 11, 2025 passed in W.P.A. 18939 of 2025. By the order impugned, the learned Court dismissed the writ petition, inter alia, holding that the choice of Fatik Chandra Mondal by way of tagging the hospital, as a temporary arrangement, until the finalization of the fresh e-tender was not illegal. Upon the demise of the successful tenderer sometime in the year 2025, the authority had made such stop gap arrangement for the supply of cooked diet to the hospital, as such service could not be stalled for a single day.

2) Mr. Saptansu Basu, learned senior advocate submits that the appellants are equally experienced as Fatik Chandra Mondal, in supply of cooked diet to hospitals. In fact, the appellants supplied cooked diet to a much

larger hospital than Fatik Chandra Mondal. Without considering the candidature of the appellants, the respondent authorities unilaterally chose Fatik Chandra Mondal. This was an act of arbitrariness, favoritism and discrimination against the appellants.

3) Mr. Rajarshi Basu, learned advocate for the respondents files a report, which indicates that as an integral part of the patient care service in all bedded Government Hospitals in the State, cooked diet is supplied by outsourced agencies, who are selected through an e-tender process.

4) For the period between 2022 and 2025, tender process was initiated. On being aggrieved with the rates in the bid document, writ petitions were filed. One of such writ petitioner was M/s. Rupa Enterprises. The tender process was kept in abeyance on the basis of the order of the High Court.

5) Pursuant to the order of the High Court a Broad-Based-Committee was reconstituted which fixed the rate for the period between 2024 and 2027, but as the injunction was still subsisting, the process could not be finalized and the fresh e-tender could not be reached to its logical conclusion.

6) Thus it is urged by Mr. Rajarshi Basu that, until the injunction passed by the learned single Judge in one of the writ petitions filed by M/s. Rupa Enterprise is vacated or the writ petition is disposed of permitting the authorities to finalize the tender process, no further steps could be taken, by the open bidding system for selection of an agency upon the demise of the successful tenderer.

7) In respect of the subject hospital, Fatik Chandra Mondal was tagged only on the ground of proximity and to tide over the immediate crisis.

8) It is further submitted that the appellants were unsuccessful in the subject bidding process and had been disqualified. Two tenderers qualified. Out of the two tenderers who had qualified, one refused to execute the work. The second one was allotted the work, but he expired in 2025, in the midst of supply.

9) Under such circumstances, we find that the selection of Fatik Chandra Mondal to supply the cooked diet till the finalization of the fresh tender was solely guided by necessity and exigency of the situation, inasmuch as, non-supply of cooked diet to the hospital would be deficiency in service and cause serious inconvenience to the patients. This emergent service could not be stopped for a single day.

10) The contention of Mr. Saptansu Basu, that the authority had shown favoritism to Fatik, cannot be accepted. The appellants were disqualified in the tender process that was floated. Secondly, even if we accept that choosing Fatik Chandra Mondal unilaterally was contrary to distribution of work by the State to the public in general, but in view of the fact that the authority was debarred from finalizing the tender process, there was no other mechanism for holding open competition in respect of the unfinished work. Under such circumstances, we are not inclined to interfere with the temporary arrangement. The appellants are at liberty to approach the learned single Judge by filing an application for

intervention, so that the matter can be resolved expeditiously and situations of like nature do not arise in future.

11) Accordingly, the appeal and the connected application are disposed of.

12) Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings. The order impugned is set aside.

(Shampa Sarkar, J.)

(Ajay Kumar Gupta, J.)