

06.02.2026
Court No.13
Item No. 7-11
sp

MAT 170 of 2026
With
CAN 1 of 2026
With
MAT 171 of 2026
With
CAN 1 of 2026
With
MAT 172 of 2026
With
CAN 1 of 2026
With
MAT 175 of 2026
With
CAN 1 of 2026
With
MAT 176 of 2026
With
CAN 1 of 2026

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

Mr. Md. Sarwar Jahan,
Ms. Maria Rahaman,
Mr. Soumyajit Roy Chowdhury,
Ms. Shalini Sen,
Ms. Sahina Parvin.

... For the appellant.

Mr. Biplab Guha,
Mr. Saikat Sen.

.. For the State in MAT 170 of 2026.

Mr. Sambuddha Dutta,
Mr. Ritesh Kr. Ganguly.

.. For the State in MAT 171 of 2026.

Mr. Manuwar Ali,
Mr. Md. Yusuf Ali.

.. For the State in MAT 172 of 2026.

Ms. Munmun Tewary,
Mr. Prodip Paul @ Pradip Pal.

.. For the State in MAT 175 of 2026.

Mr. Anand Farmania,
Mr. Aniruddha Sen.

.. For the State in MAT 176 of 2026.

1.The appellant is aggrieved by order dated 28th January, 2026 passed by a Single Bench of this Court.

2.The grievance of the petitioner before the Single Bench was that the tender conditions stipulating experience of supplying diet to a minimum 200-bed Government Hospitals/Government undertaking hospitals in the last 5 years preceeding the date of opening the tender, is aimed at excluding the petitioner. The petitioner has as on date experience of supplying cooked diet to a 130-bed hospital. Prior to 2018, he had supplied cooked diet to several 200-bed hospitals.

3. The Single Bench found that the respondents were within their right to stipulate terms and conditions for fixing eligibility criteria. The absence of experience of serving cooked diet to minimum 200-bed hospitals in the last 5 years, could seriously question the competence of the appellant/petitioner to fulfil the so very essential service to the patients of a hospital. The writ petition was, therefore, dismissed by the Single Bench.

4.This Court is reminded of the decision of the Supreme Court in the case of ***M/s. Michigan Rubber (India) Ltd. Vs. State of Karnataka & Ors.*** reported in **(2012) 8 SCC 216**, ***Tata Cellular Vs. Union of India*** reported in **(1994) 6 SCC 651** and ***Raunaq International Ltd. Vs.***

I.V.R. Construction Ltd. & Ors. reported in ***(1999) 1 SCC 492.***

5. In ***M/s. Michigan Rubber (India) Ltd. (supra)***, it was held that the argument at tender conditions were changed to exclude the existing supplier was rejected. In ***Tata Cellular (supra)*** and ***Raunaq International Ltd. (supra)***, it was held that the respondents must be given to “play the joints” for fixing terms and conditions of the tender.

6. It appears from the instructions of the Additional Director, E.S.I. (M.B.) Scheme, West Bental dated 5th February, 2026 in respect of MAT 175 of 2026 has submitted instructions to State advocate. It is seen from the instructions that the earlier stipulation prior to 2025 of 3 years experience from April 2011 was felt as obsolete.

7. In the instant case as many as 10 persons have filed tender and the petitioner knowing fully well that he is excluded did not participate in tendering process.

8. Having regard to the above, this Court is of the view that the decision of the respondents in changing the eligibility criteria for filling tenders cannot be faulted. The petitioner cannot claim as a matter of right to have any particular eligibility criteria to be stipulated by the respondents.

9. In view of the above, the impugned order calls for no interference.

10. In view of the above, all the appeals fail and hereby dismissed.

11. Consequently, all connected applications, if any, shall also stand dismissed.

12. The instructions dated 05.02.2026 are taken on record.

13. There shall be no order as to costs.

14. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)

(Ajay Kumar Gupta, J.)