

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

Before:

The Hon'ble Justice Hiranmay Bhattacharyya

WPA 4308 of 2026

Greego Drive Private Limited

VS.

The State of West Bengal & Ors.

For the petitioner : Mr. Sukanta Chakraborty
Mr. Soumya Kanti Sinha
Ms. Suparna Das
Mr. Anindya Halder
..... advocates

For the State : Mr. Amal Kumar Sen, Ld. AAG
Mr. Soumitra Bandyopadhyay,
learned Sr. Govt. Adv.
Mr. Priyabrata Batabyal
..... advocates

Reserved on : 23.03.2026

Judgment on : 09.04.2026

Hiranmay Bhattacharyya, J.:-

1. Petitioner has prayed for setting aside the Memo issued by the 5th respondent dated 03.02.2026 by virtue of which the auction initiated vide the Request for Proposal being **RFP no. WBIW/SE/WC-II/RFP-41(e)/2025-26** was cancelled. Petitioner prayed for a direction upon the respondent authorities to issue Letter of Intent (LOI) and the work order in favour of the petitioner in respect of **RFP-41(e)/2025-26**. The petitioner also prayed for a writ of prohibition prohibiting the respondent authorities from floating/proceeding with any further auction in respect of

dredging/desilting/removal of river bed materials from Tamal river from Kontai to Sarai.

2. A Request for Proposal (for short “RPF”) being **RPF No. WBIW/SE/WC-II/RFP 41(e)/2025-26** was issued on 03.12.2025 by the Superintendent Engineer Western Circle II Irrigation and Waterways Directorate, Paschim Medinipur for Dredging/Desilting/Removal of river bed materials from Tamal River from Kontai to Sarai for a length of 15.00 Kms. under “No Cost to State Exchequer” basis. Petitioner submitted its bid. In the Auction Evaluation Summary Sheet, petitioner was declared as the H1 bidder. The 5th respondent issued an order dated 03.02.2026 thereby cancelling the auction due to administrative reason.
3. Challenging the decision of cancellation of e-auction, petitioner approached this Court.
4. Mr. Chakraborty learned advocate for the petitioner contended that the petitioner has been declared as the H1 bidder and the respondent authorities instead of issuing the Letter of Intent (LOI)/ Letter of Acceptance (LOA) in favour of the petitioner cancelled the auction. He contended that no reasons have been assigned by the respondent authorities and no opportunity of hearing has also been afforded to the petitioner before cancelling the auction.
5. The learned Additional Advocate General appeared for the State and submitted that an inadvertent calculation mistake was discovered in the RFP documents pertaining to **RFP-41(e)/2025-26** for which the auction had to be cancelled. He further contended that the estimated quantity had been substantially reduced by approximately 3000 cu.ft for which the said RFP had to be cancelled. In support of such contention the learned Additional Advocate General produced a copy of the report of the 5th respondent dated 05.03.2026 which was taken on record and a copy of such report was supplied to the learned advocate for the petitioner.

6. Petitioner filed a supplementary affidavit affirmed on March 23, 2026 for bringing on record the RFP issued subsequently for selection of contractor for the work Dredging/Desilting/Removal of river bed materials from Tamal river from Kontai to Sarai for a length of 14.700 Kms. under “No Cost to State Exchequer” basis being **RFP no. 47(e)/2025-26**.
7. Mr. Chakraborty contended that though the respondent authorities on 05.03.2026 submitted that the estimated quantity had been reduced by approximately 3000 cu.ft for which the auction had been cancelled but from the RFP being no. 47(e)/2025-26 it appears that the total estimated volume of river bed materials to be Dredged/Desilted/Removed is 1,45,86,783.06 cu.ft which is 2,89,049.74 cu.ft less than the total estimated volume of river bed materials to be dredged and not 3000 cu.ft. Mr. Chakraborty placed reliance upon the decision of the Hon’ble Supreme Court in the case of **Mohinder Singh Gill and Another vs. The Chief Election Commissioner, New Delhi and ors.** reported at **(1978) 1 SCC 405**, in support of his contention that the validity of an order passed by a statutory authority has to be judged by the reasons mentioned in the said order and cannot be supplemented by fresh reasons in the shape of affidavit or otherwise. He, thus, submitted that since the original order cancelling the e-auction did not cite any reason, the reasons stated in the report of the 5th respondent dated 05.03.2026 cannot supplement the unreasoned order dated 03.02.2026. Mr. Chakraborty further contended that the bidders participated in the auction on the basis of the estimated volume of river materials to be dredged/desilted/removed as indicated in the **RFP no. 41(e)/2025-26** and such estimated volume could not have been changed after the financial bid has been quoted by the bidders and declaration of the petitioner as H1 bidder. Mr. Chakraborty, thus, contended that the estimated volume could not be changed in the midst of an auction process and in support of such contention he placed reliance upon the Constitution Bench decision of the Hon’ble Supreme Court in the case of **Tej Prakash Pathak and others vs. Rajasthan High Court and ors.** reported at **(2025) 2 SCC 1**. He contended that though the said decision was delivered in the context of a recruitment

process but the proposition of law laid down therein shall squarely apply to an auction process as well.

8. Heard the learned advocates for the parties and perused the materials placed.
9. The 5th respondent issued RFP no. 41(e)/2025-26 (for short “the said RFP”) for selection of contractor for the work “Dredging/Desilting/Removal of river bed materials” from Tamal River from Kontai to Sarai for a length of 15.00 Kms. The said RFP contains a Schedule Sheet mentioning the last date and time for online submission of Techno Commercial Bid and for offline submission a Techno Commercial Bid documents (physical copy) as well as date for conduct of electronic action. The total estimated volume of river bed materials to be dredged/desilted/removed is 1,48,75,832.80. cubic feet and the floor volume for bidder was 5% thereof i.e., 7, 43, 791. 64 cubic feet.
10. Record reveals that the Auction Evaluation Summary Sheet was uploaded on 16.01.2026 by the 5th respondent and the petitioner was declared as the H1 bidder. From the said Auction Evaluation Summary Sheet it appears that the petitioner quoted the share of volume as 1,48,73,792 cft.
11. Clause 7.3 of the RFP deals with the e-auction and declaration of preferred bidder. Sub-clause 7.3.2 states that the bidder quoting the highest share of volume (in CUM/CFT) of Dredged/Desilted/Silt/Soil/Earth shall be declared as H1. The Bid Evaluation Sheet containing quoted bids of the bidders of e-auction will be uploaded and duly Test checked by the DAO, West Medinipur Division before uploading the same in the portal by Superintending Engineer, WC-II. The Superintending Engineer, WC-II will recommend the H1 bidder to the concerned Executive Engineer/Superintending Engineer/Chief Engineer as the case may be for acceptance.
12. Sub-clause 7.3.3 states that Letter of Intent (LOI)/Letter of Acceptance (LOA) will be issued to H1 bidder upon recommendation of Tender Evaluation Committee of Superintending Engineer, WC-II by concerned Executive

Engineer/Superintending Engineer or the Chief Engineer as the case may be.

13. In the case on hand, the petitioner has been declared as the H1 bidder as would be evident from the auction evaluation summary sheet dated 16.01.2026.
14. Mr. Chakraborty would vehemently contend that upon declaration as a H1 bidder, a vested right accrued in favour of the petitioner for issuance of LOI/LOA in its favour.
15. This Court is not inclined to accept the aforesaid contention of Mr. Chakraborty for the reasons as set out hereinafter.
16. Note 3 appearing after sub-clause 6.10.1 read with first limb of sub-clause 7.3.2 states that the bidder quoting the highest share of volume shall be declared as H1. The Auction Evaluation Summary Sheet dated 16.01.2026 has been prepared in the descending order of quoted share of volume by the bidders and the bidder quoting the highest share of volume i.e., petitioner herein has been ranked as H1 and the other bidders had been ranked as H2 and H3 in the descending order.
17. Ranking of a bidder as H1 in the Auction Evaluation Summary Sheet does not amount to crystallization of right in its favour to be issued with the LOI/LOA as such ranking is subject to the decision of the “Authority” to accept or reject the bid as clarified under the “Remarks” column of the Auction Evaluation Summary Sheet.
18. Auction Evaluation Summary Sheet has been uploaded by the 5th respondent who is only the Tender Evaluation Committee and the recommending authority for issuance of LOI/LOA.
19. Record reveals that the 5th respondent issued the cancellation order dated 3rd February 2026 citing “administrative reasons” as the ground for cancelation of the auction. Though the nature of the “administrative reasons” has not been specifically stated in the cancellation order dated

03.02.2026 but in the report of the 5th respondent dated 05.03.2026 it has been stated that an inadvertent calculation mistake was discovered in the e-RFP document and by revision of calculation, the estimated quantity has been reduced.

20. It is not in dispute that after cancellation of the auction, a **RFP no. 47(e)/2025-26** was issued by the 5th respondent on 02.03.2026 for selection of contractor for the work “dredging/desilting/removal of river bed materials from Tamal River from Kontai to Sarai for a length of 14.700 Kms. under “No Cost to State Exchequer” basis and the total estimated volume of river bed materials to be dredged/desilted/removed has been mentioned in the data sheet as 1,45,86,783.06 cu.ft. Though the report of the 5th respondent dated 05.03.2026 states that the estimated quantity of river bed materials to be dredged/desilted/removed has been reduced by 3000 cu.ft for which the **RFP-41(e)/ 2025-26** had to be cancelled but from the **RFP no. 47(e)/2025-26** it appears that the length of the area from which the river bed materials are to be dredged/desilted/removed has been reduced from 15.00 Kms. to 14.700 Kms. and the total estimated volume of river bed materials to be dredged has been reduced from 1,48,75,832.80 cuft. to 1,45,86,783.06 cuft. and not by 3000 cuft. as stated in the report.
21. Whether the principles of Judicial Review would apply to the exercise of contractual powers by government bodies fell for consideration before the Hon’ble Supreme Court in **Tata Cellular vs. Union of India** reported at **(1994) 6 SCC 651**. The Hon’ble Supreme Court held that the right to refuse the lowest bid or any other tender is always available to the Government but the principles laid down in Article 14 of the Constitution have to be kept in mind while accepting or refusing a tender. The Hon’ble Supreme Court clarified that there can be no question of infringement of Article 14 if the Government tries to get the best person or the best quotation. It was held that the right to choose cannot be considered to be an arbitrary power. The Hon’ble Supreme Court further held that the grounds upon which an administrative action is subject to control by judicial review is illegality,

Irrationality namely Wednesbury unreasonableness and Procedural impropriety.

22. The Hon'ble Supreme Court in **Subodh Kumar Singh Rathour vs. Chief Executive Officer and others** reported at **(2024) 15 SCC 461** reiterated the proposition of law laid down in **M.P. Power Management Co. Ltd. vs. Sky Power Southeast Solar India (P) Ltd.** reported at **(2023) 2 SCC 703** that an action under a writ will lie even at a stage prior to award of a contract by the State wherever such award of contract is imbued with procedural impropriety, arbitrariness, favouritism or without application of mind.
23. In the case on hand, the dispute between the parties arose at a stage prior to the award of contract. In view of the aforesaid discussion, this Court is of the considered view that the action of the respondent authority can be scrutinized by exercising the power of Judicial Review.
24. At this stage it would be relevant to take note that the auction process vide **RFP no. 41(e)/2025-26** was initiated by the 5th respondent on 03.12.2025 and the petitioner was declared as the H1 bidder on 16.01.2026. The said auction process was cancelled due to administrative reasons as, according to the respondent authorities, there was a mistake in the calculation of the estimated volume of river bed materials to be dredged.
25. When the authorities have initiated an auction process it is for the authorities to verify and calculate the length of the river from which the river bed materials are to be dredged as well as the total estimated value of river bed materials to be dredged therefrom prior to initiation of auction process. No material has been produced before this Court to show that the revision of calculation of the estimated quantity of river bed materials to be dredged was uploaded in the official website prior to the uploading of the Auction Evaluation Summary Sheet. That apart after taking note of the nature of the work involved in **RFP no. 41(e)/2025-26** and **RFP No. 47(e)/2025-26** this Court is of the considered view that the authorities are still proceeding to carry out the work through Contractor and for such purpose a separate RFP

was issued. The subsequent RFP is in effect continuation of the earlier auction process, however, with some minor modification as to the length of the proposed area of work and the volume of materials to be dredged therefrom.

26. In **Tej Prakash Pathak** (supra), it was held that the eligibility criteria for being placed in the select list, notified at the commencement of the recruitment process, cannot be changed midway through the selection process unless the extant rules so permit or the advertisement, which is not contrary to the extant rules, so permit. The said decision cannot be applied to the facts of the case on hand as no material has been produced to show that any change as to the eligibility criteria as notified at the commencement of the auction process has been made in the midst of such auction process.
27. The Hon'ble Supreme Court in **Mohinder Singh Gill** (supra) held that when a statutory functionary makes an order based on certain grounds, its validity must be judged by the reasons so mentioned and cannot be supplemented by fresh reasons in the shape of affidavit or otherwise.
28. This Court has to test whether the reasons for cancellation as stated in the cancellation order can be sustained in the eye of law.
29. The order of cancellation of Tender only cites "administrative reasons" as the ground for cancellation. No specific reasons have been assigned for such cancellation. Therefore, the order of cancellation is a non-speaking one. The reasons for cancellation stated in the Report cannot be taken into consideration in view of the decision in **Mohinder Singh Gill's** case (supra). The subsequent RFP has also been issued wherein the nature of the work as well as the location is almost identical with some minor modification as observed hereinbefore. Thus the action of the respondent authority suffers from the vice of arbitrariness. Since no acceptable reasons have been recorded in the cancellation order, this Court is inclined to interfere with such order.

30. Accordingly the cancellation order dated 03.02.2026 passed in RFP 41(e)/2025-26 stands set aside. Consequently all steps taken thereafter including issuance of subsequent RFP for the area of work involved in the RFP No. 47(e)/2025-26 is also set aside. The respondent authorities are directed to take further steps in accordance with law. Writ petition stands allowed.
31. There shall be, however, no order as to costs.
32. Urgent photostat certified copies, if applied for, be supplied to the parties upon compliance of all formalities.

(HIRANMAY BHATTACHARYYA, J.)