

Item No.9
21.05.2026
Court. No. 12
GB

MAT 893 of 2026
With
CAN 1 of 2026

M/s. Mallick Enterprises
VS
Employees State Ins Corporation & Ors.

*Mr. Kishore Dutta, Sr. Adv.,
Mr. Sanjay Saha*

...for the Appellant.

Mr. Rajib Ray

...for the Respondent Nos.1 to 3.

1. Affidavit-of-service filed in Court today, is taken on record.
2. The two technically qualified bidders are already on record, but they have not appeared despite service.
3. The appeal arises out of an order of refusal of an interim protection to a participant in a tender process floated by the ESIS Hospital, Uluberia, the respondent no.2. The tender relates to annual repair, maintenance and operation of the electrical work at the ESIS Hospital, Uluberia and staff quarters for the year 2026-27.
4. The learned Single Judge recorded that the disqualification of the bidder at the technical round by the tendering authority, was on the ground of non-submission of documents.
5. Mr. Dutta, learned senior advocate for the appellant submits that the appellant is a reputed

government enlisted contractor and has a registration certificate for electrical works. The said registration certificate was submitted along with Form-C and the contract documents were digitally signed. Mr. Dutta has shown us the relevant documents in support of such contention. He also submits that the documents which have been annexed to the CAN are those which have been downloaded from the website. All those documents were available before the tendering authority, yet the tendering authority disqualified the appellant at the technical round.

6. We, prima facie, find from the documents that Form-C has been submitted in the format which is at page 252 of the connected application. We find clause 2 of the tender document under the head "Submission of Bids" provides that the bidder has to digitally sign and upload the required documents one by one as indicated in the tender document. In compliance of Clause 17(iv) of the bid document, the appellant submitted a licence as an electrical contractor issued by the Government of West Bengal.
7. Learned advocate for the respondent submits that the tender document should have been signed and digital signature was not permitted. He also submits that the contractor should have registration as an electrical, civil and mechanical

contractor. Registration in respect of all these three disciplines should cumulatively exist in respect of the bidder.

8. It has been informed to us that, two persons qualified in the technical bid. The financial bid has also been opened. The work order has not been issued and no date has yet been fixed for the same. We are of the view that, the documents of the other bidders who were found to be eligible in the technical round should also be considered by the learned writ court to understand the lapses on the part of the appellant. From the undertaking given by the appellant in Form-C, there does not appear to be any obvious discrepancy. Thus, unless the other documents uploaded by the qualified bidders at the technical round are scrutinized by the Court, it will not be proper to decide whether the appellant ought to have been given a chance to participate in the financial round.
9. The contention of Mr. Dutta that, as the contract was for annual repair and maintenance of the electrical works at the hospital and staff quarters, it would be irrational to read Clause 17(iv) to mean that the bidder who participates for the said work, will have to be registered as a civil, electrical and mechanical contractor cumulatively, has to be decided in the writ petition. Moreover, this issue can only be clarified upon the affidavit being filed,

enclosing the entire set of documents which were uploaded by the two bidders who had technically qualified. The financial bid of the appellant is already with the authority and kept in a sealed cover.

10. The learned advocate for the tendering authority further submits that the appellant cannot challenge the tender conditions and the tendering authority alone, has the wisdom to frame such terms and conditions.
11. Mr. Dutta's challenge is not to the terms, but he has submitted that his client has fulfilled the eligibility criteria as per the Notice Inviting Tender.
12. Under such circumstances, affidavit-in-opposition shall be filed within a week after reopening; affidavit-in-reply thereto, if any, be filed within a three days thereafter.
13. As the subsisting contract continues up to June 30, 2026, we request the Regular Bench to decide the matter before June 25, 2026.
14. We direct that the work order should not be issued, till the writ petition is taken up next. This interim order will not cause any hardship to the tendering authority as the existing contract for repair work continues up to June 30, 2026 and the subject contract is for a later period.

15. Liberty to mention the writ petition after the expiry of the aforementioned period.
16. Accordingly, the appeal and the connected application are disposed of.

(Shampa Sarkar, J.)

(Ajay Kumar Gupta, J.)