ADSL 1
25.11.2026
Court. No. 25
suvayan

WPA 33113 of 2026

M/s Sukumar Ghosh
Vs.
The State of West Bengal & Ors.

Mr. Imtiaz Ahmed
Mr. Debattam Das
Mr. Tirupati Mukherjee
Mr. Md. Arsalan

...for the petitioner.

Mr. Rivu Dutta
Mr. S. K. Tiwari
Mr. Rhitam Chatterjee

...for the State.

1. The petitioner has filed the present writ application challenging the tender process issued by the Director, Institute of Blood Transfusion Medicine and Immunohaematology, Kolkata dated November 5, 2026.
2. The petitioner has challenged the Clause 3.1 (a) and (b) of the general conditions of contract and submits that the authorities have only allowed with experience in providing scavenging services in a Government Hospital or corporate hospital/Medical College and Hospital. The authorities are not allowing the other experienced contractors to participate in the tender having experienced with private sectors and other institutes.
3. Learned counsel for the petitioner submits that the petitioner is having the experience of scavenging at Children Home for Girls at Nadia but due to the condition imposed by the authorities in Clause 3.1, the petitioner is not in a position to participate at the said tender. The petitioner has disclosed the communication dated January

30, 2023 issued by the Superintendent cum Manager, Children Home for Girls, Naida and by relying upon the said document, the petitioner submits that the petitioner had executed the work by deputing the scavenging personnel at Children Home from the month of February 2023 to January, 2024 and also August, 2025 to July, 2026 but the respondent authorities are not accepting the said experience certificate.

4. He further submits that when the petitioner came to know about the said conditions, the petitioner has participated in the pre-bid meeting held on November 13, 2026 and informed about the said terms and conditions and the petitioner also submitted the written request for modification of the terms by allowing the contractors who are having the experience from the private sector and other institutes/establishments and the respondent authorities are given verbal assurance but have not issued any order by modifying the terms and conditions though today at 2.00 p.m. is the last date of submission of the bid document.

5. Learned counsel appearing for the State submits that the authorities intending that the contractors should have experienced in providing scavenging services in Government Hospital or corporate hospital/Medical College and Hospital and the authorities are not accepting other contractors who have completed any work in respect of the private sector. It is the authority who can decide the terms and conditions of the tender. The petitioner cannot dictate what would be the terms and conditions of the

tender. He further submits that the tender has been issued by the Director, Institute of Blood Transfusion Medicine and Immunohaematology, Kolkata and the said work has to be executed in the Office of the IBTM&IH which consist of lab wherein an experience person in the Government sectors are required. Taking into the said consideration, the authorities have put the said condition in the said tender.

6. Heard the learned counsel for the respective parties perused the materials on record.

7. The Clause 3 of the tender terms and conditions of the contract reads as follows:

> *"3. Eligible and Qualified Bidders*
> *3.1*
> *a) The intending tenderer should produce credential of similar nature of a completed single work with experience in providing scavenging services in a Government Hospital or corporate hospital/Medical College and Hospital having minimum value of 40% (Forty per cent) of the estimated amount per annum put to tender during 3 (three) years prior to the date of the issue of this e-Tender notice*
> *OR*
> *b) the intending tenderer should produce credentials of 2 (Two) similar nature of completed works with experience in providing scavenging services in a Government Hospital or corporate hospital/Medical College and Hospital, each having a minimum value of 30% (Thirty per cent) of the estimated amount per annum put to tender during 3 (three) years prior to the date of issue of this e-Tender notice.*

All information shown in table under clause 12.3 under Section VI of this NIT document to be part of the Technical evaluation."

8. The petitioner is having the experience of deputing the scavenging personnel at Children Home not in any hospital even in Government Hospital or any College. The petitioner has participated in the pre-bid meeting but the authorities have not accepted the request of the petitioner. It is settled law that it is the authority who has to decide with regard to the terms and conditions.

9. The Court sitting writ jurisdiction under Article 226 of the Constitution of India cannot dictate the terms and conditions of the contract. The writ petition can be entertained if there is any *mala fide* or arbitrariness on the part of the authorities but in this case, this Court did not find any *mala fide* or arbitrariness on the part of the authorities by keeping the said terms and conditions in the contract.

10. This Court finds that the tender notice has been published for providing the cleaning and housekeeping services in the Institute of Blood Transfusion Medicine and Immunohaematology, Kolkata. This is the sensitive place where the person has to provide the person for cleaning and housekeeping and as such the authorities have put the condition of the experienced persons who have provided the said services in the Government Hospital or corporate hospital or Medical College but the petitioner is showing his experience in the children home which is totally

different than the work in the Government Hospital or corporate hospital or Medical College.

11. Considering the above, this Court did not find any merit in the present writ application.
12. Accordingly, the writ petition 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.)