

**IN THE HIGH COURT AT CALCUTTA
CIRCUIT BENCH AT JALPAIGURI
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble Justice Debangsu Basak

And

The Hon'ble Justice Chaitali Chatterjee (Das)

MAT 108 of 2025

With

IA No.: CAN 1 of 2025

Md. Afroz Alam

Vs.

The State of West Bengal & Ors.

For the appellant : Mr. Sourav Ganguly, Advocate
Mr. Abhishek Sarkar, Advocate (through VC)
Ms. Rishita Chakraborty, Advocate

For the State : Mr. Bikash Singha, Advocate

For the Respondent No.2: Ms. Angana Rakshit, Advocate

Heard & Judgment on : **January 14, 2026**

DEBANGSU BASAK, J.:-

1. Affidavit-in-opposition filed in Court be taken on record.
2. Appeal is at the behest of the writ petitioner and directed against the order dated December 15, 2025 by which, learned Trial Judge after noticing that, work order was issued, did not interfere.
3. Learned Advocate appearing for the appellant submits that, the appellant participated in a tender process. Appellant was the lowest bidder. Tender of the appellant was wrongfully disallowed on the alleged ground

that the appellant did not produce the original of the documents. He submits that, the tender was done on the internet. It was essentially an e-tender. No notice of the production of any document in original was served upon the appellant. Therefore, the question of not complying with the terms and conditions of the tender process does not arise.

4. Learned Advocate appearing for the appellant refers to various documents and submits that, the Gram Panchayat concerned is consistently dealing with the appellant in a manner so as to oust the appellant from the tender process. He draws the attention of the Court to the various other instances where the participation of the appellant in the tender process was wrongfully disallowed.
5. Learned Advocate appearing for the Panchayat submits that, of the two works in respect of the subject tender, in which the appellant participated, although, the appellant was the lowest bidder in both of them, the appellant failed to adhere to the terms and conditions of the tender process. She submits that, the tender terms and conditions permits the Gram Panchayat not to accept the last bid. She also submits that, both the works were allotted. In respect of one work, the same stands completed and the payment is under process. So far as the other work is concerned, the substantial progress was made therein.
6. From the records made available to us, it appears that, the appellant participated in a tender process initiated at the behest of the concerned Gram Panchayat. A notice inviting tender was published by the

concerned Gram Panchayat being e-NIT No.01/2025-26. The bid of the appellant stood rejected at the technical evaluation stage. In the affidavit filed before us, the ground of rejection offered by the Gram Panchayat is that, the appellant failed to produce the original documents in support of the tender process.

7. We find from the records that, no written notice was given to the appellant calling upon the appellant to produce the original. We are conscious of the fact that, the tender was an e-tender process. Therefore, in an e-tender process, it was the incumbent duty of the tenderer to issue a notice in writing to the participants calling upon such participants to produce the originals, if required.
8. In the present case, the concerned Gram Panchayat did not issue any notice in writing to the appellant to produce the originals. What is contended on behalf of the concerned Gram Panchayat is that, a notice to produce originals was posted on the notice board. In our view, the same is not sufficient to bind every tenderers participating in the tender process.
9. The clause of the tender process which permits the concerned tenderer not to accept the lowest bid, however, is required to be read in the context of a given situation.
10. In the facts and circumstances of the present case, such clause cannot be pressed into service by the concerned Gram Panchayat to reject the tender of the appellant at the technical evaluation stage.

11. In our view, the rejection of the tender of the appellant was wrongfully done by the concerned Gram Panchayat. We, however, find from the records that, the appellant participated in respect of two items in the said tender process. The appellant could not secure any favourable order from any Court in respect of both items. The tenderer proceeded to issue work orders in respect of both. In respect of one, the work is nearing completion while in respect of other, it is completed and the payment is under process.
12. In such circumstances, it would not be prudent to alter the situation presently obtaining in respect of the tender. We are of the view that, the concerned Gram Panchayat will be cautious in dealing with any future tender undertaken by them keeping in view the observations made in this order.
13. Gram Panchayat will proceed to refund the earnest money deposited by the appellant not later than 7(seven) days from date.
14. **MAT 108 of 2025** along with connected application is **disposed of** without any order as to costs.

(Debangsu Basak, J.)

15. I agree.

(Chaitali Chatterjee (Das), J.)