

**IN THE HIGH COURT AT CALCUTTA
(Constitutional Writ Jurisdiction)
ORIGINAL SIDE**

Present:

The Hon'ble Justice Krishna Rao

W.P.O. No. 89 of 2026

**M/s Innovatiview India Limited through
its representative Ashish Painuly**

Vs.

The Chief Electoral Officer, West Bengal & Anr.

Mr. Jaydip Kar, Sr. Adv.

Mr. Biswaroop Bhattacharya

Mr. Anuj Saxena

Mr. Anuj Rakshit

Mr. Aditya Mondal

....For the petitioner.

Mr. Soumendra Nath Mookherjee, Sr. Adv.

Ms. Anamika Pandey

Mr. Naman Choudhury

Mr. Ghanshyam Pandey

....For the respondents.

Hearing Concluded On : 26.02.2026

Judgment on : 27.02.2026

Krishna Rao, J.:

1. The petitioner has filed the present writ application praying for setting aside and quashing of the tender being Request for Proposal (RFP) No. CEOWB/2026 /e-tender /002 dated 9th February, 2026 for selection of an agency for providing a surveillance system for live Web Streaming (Audio, Video, Record, Viewing, CCTV and other services) for the General Election to West Bengal Legislative Assembly, 2026.
2. The petitioner is aggrieved with the eligibility criteria in Clause 4(a) and 4(b) under the heading “Bidder’s Experience” wherein it is mentioned that:

(a) Bidder should have executed live election web streaming (IP based HD CCTV cameras-based audio and video from multiple locations) orders cumulatively totalling in not less than 1,30,000 cameras for web streaming at Polling Stations and at least 3000 CCTV camera in counting in India for CEO office or any Government Departments/ PSUs and Government Agencies on behalf of Election Commission of India during the 3 financial years from the date of RFP (2023-24, 2024-25 and 2025-26).

(b) Bidder should have executed at least 3 full state orders of live web streaming (IP based HD CCTV cameras-based audio and video from multiple locations) for web streaming of Elections in different states of India on behalf of Election Commission of India during 3 years from date of issue of RFP (2023-24, 2024-25 & 2025-26).

Consortium, Joint Ventures, UT or Local body experience not allowed.

In case of consortium, Only Prime Bidder experience allowed.

3. The petitioner has submitted Pre-bid query to the respondent no. 1 and requested for the following changes:

*“We respectfully submit that we possess the requisite experience of deploying **more than 1,30,000 cameras** for live web streaming at polling stations. In this context, we request the department to **relax or rationalize** the experience requirement pertaining to the installation of CCTV cameras at counting centres.*

*Further, an agency that has demonstrably executed live web streaming across **tens of thousands of polling stations** has, by definition, established its technical capability, operational scalability, manpower planning capacity, and logistical maturity. Accordingly, the counting-centre experience condition does not evaluate a materially distinct capability but instead introduces an artificial entry barrier that may disproportionately limit competition.*

*Therefore, we request the department to kindly allow bidders with **at least one work order involving counting-centre deployment**, or bidders having experience of deploying **a minimum of 400 CCTV cameras at counting centres**, to participate in the tender.”*

4. On 20th February, 2026, the respondent no. 2 issued corrigendum but has not considered the suggestion of the petitioner as proposed by the petitioner.
5. Mr. Jaydip Kar, Learned Senior Advocate representing the petitioner submits that similar tender was published at Kerala and same eligibility condition was imposed in the said tender by the same authority and the petitioner had submitted pre-bid suggestion to the tendering authority and the tendering authority considered the

suggestions and modified the eligibility criteria by way of corrigendum which reads as follows :

“The bidder should have experienced in executing live web streaming (with IP based HD web cameras-based audio and video from multiple locations) for Elections conducted by Election Commission of India (ECI) / State Election Commission. The bidder should have successfully executed the following project/s during the last 3 years in India covering the following number of polling stations.

- a) 15,000 locations for polling in a single order.*
- (or)***
- b) 20,000 locations for polling in two orders. **(or)***
- c) 25,000 locations for polling in three orders.”*

- 6.** Mr. Kar submits that the petitioner was awarded with the similar work for Webcasting of the poll proceeding on the days of the poll in the Lok Sabha General Election, 2024 in the State of Uttar Pradesh and the petitioner has successfully executed the work and the authorities have provided completion certificate.
- 7.** Mr. Kar submits that as per Clause 24 of the bid document, it also reveals that the respondents can award the work order to more than one bidder that matches L1 rate and meet the required technical criteria.
- 8.** Mr. Kar submits that the respondents have incorporated the said conditions in the eligibility criteria only to give benefit to the selective bidders and deprive the other bidder who are otherwise eligible to participate in the said tender.

9. In respect of his submissions, he has relied upon the judgment in the case of ***Vinishma Technologies Pvt. Ltd. vs. State of Chhattisgarh & Anr.*** reported in **2025 SCC OnLine SC 2119**, held that :

“19. The object of public procurement is to secure quality goods and services for the benefit of public exchequer. The said object can be achieved by requiring the bidders to demonstrate financial capacity, technical experience, and past performance in contracts of similar nature, regardless of place of performance of the contract. To confine the eligibility to participate in the tender, within one State is not only irrational but is also disproportionate to the goal of ensuring effective delivery of Sports Kits.”

10. Mr. Soumendra Nath Mookherjee, Learned Senior Advocate, representing the respondents submits that the petitioner has made a false statement that despite submitting Pre-bid query before the respondent no. 1, the respondent authorities sat tight over the matter though the petitioner has participated in the Pre-bid tender and after the discussion, the authorities have issued the corrigendum dated 20th February, 2026 which the petitioner has already disclosed at page 82 of the present writ application.
11. Mr. Mookherjee submits that as per the Pre-bid queries raised by the petitioner reveals that the petitioner is not having experience of installation of CCTV in the counting centres. He submits that the petitioner has made an allegation that the respondents have incorporated Clause 4 which is a tailor made in order to cut out competition and curtail participation in the tender process but the

petitioner has not disclosed the name of the persons to whom the respondents are intending to support for issuance of tender.

- 12.** Mr. Mookherjee submits that in Clause 24 of the tender document, the respondents have only reserved their right to award the work order to more than one bidder, if any, emergency occasion arises. He submits that the petitioner has misinterpreted the said Clause by saying that the respondents will award the work order to other bidders also.
- 13.** Mr. Mookherjee submits that in the tender document, it is categorically mentioned that at present in the State of West Bengal, there are 80681 Polling Booths, and total counting centres are 108 and total counting halls are 421. He submits that 80681 polling stations are required to be monitored through Webcasting. The Webcasting is also to be carried out from 108 counting halls which will be conducted in large halls from designated counting counters besides 1470 checkpoints, 2646 FSV, approximately 3093 QRT Vehicles across the constituency as per the instructions of the Election Commission of India.
- 14.** Mr. Mookherjee submits that the petitioner cannot equate the election of State of Kerala with the election of State of West Bengal. He submits that as per the instruction of the Election Commission of India, all polling stations i.e. 100% with the internet connectivity have to be monitored through Webcasting to ensure oversight the critical activities.

15. Mr. Mookherjee submits that the number of locations for audio video recording is 421 counting halls in 108 counting centres. At the counting centres, 7 numbers of cameras are to be installed per hall and at the counting premises 10 numbers of cameras per premises for other purposes. He submits that if the Pre-bid queries submitted by the petitioner are taken into consideration, it reveals that the petitioner is not qualifying with the conditions for installment of CCTV in counting centres and thus has requested for modification of the tender condition.

16. Mr. Mookherjee submits that the terms and conditions of the invitation to tender are within the domain of the making authority and are not open to judicial scrutiny unless and until there are arbitrary, discriminatory and mala fide on behalf of the tender making authority. In support of his submission, he has relied upon the judgment in the case of ***Airport Authority of India vs. Centre for Aviation Policy, Safety and Research (CAPSR) & Ors.*** reported in **2022 SCC OnLine SC 1334**.

17. Heard the Learned Counsels for the respective parties, perused the materials on record and the judgments relied by the parties. As per the eligibility criteria, the bidder should have executed live election web streaming (IP based HD CCTV cameras-based audio and video from multiple locations) orders cumulatively totaling is not less than 1,30,000 cameras for web streaming at Polling Stations and at least 3000 CCTV cameras in counting in India for CEO office or any Government Departments/PSUs and Government Agencies on behalf of

Election Commission of India during the three (3) financial years from the date of RFP (2023-24, 2024-25 and 2025-26). It is further provided that the bidder should have executed at least 3 full state orders of live web streaming (IP based HD CCTV cameras-based audio and video from multiple locations) for web streaming of Elections in different States of India on behalf of the Election Commission of India during three (3) years from date of issue of RFP (2023-24, 2024-25 and 2025-26). The petitioner in the pre-bid quires, has given the suggestion for change the criteria which reads as follows :

*“We respectfully submit that we possess the requisite experience of deploying **more than 1,30,000 cameras** for live web streaming at polling stations. In this context, we request the department to **relax or rationalize** the experience requirement pertaining to the installation of CCTV cameras at counting centres.*

*Further, an agency that has demonstrably executed live web streaming across **tens of thousands of polling stations** has, by definition, established its technical capability, operational scalability, manpower planning capacity, and logistical maturity. Accordingly, the counting-centre experience condition does not evaluate a materially distinct capability but instead introduces an artificial entry barrier that may disproportionately limit competition.*

*Therefore, we request the department to kindly allow bidders with **at least one work order involving counting-centre deployment**, or bidders having experience of deploying **a minimum of 400 CCTV cameras at counting centres**, to participate in the tender.”*

- 18.** The petitioner is only aggrieved with regard to the installation of CCTV cameras at counting centres. If the suggestion for changes in the

eligibility criteria as proposed by the petitioner is taken into consideration, admittedly, the petitioner is not having the said experience which required for the present tender process.

- 19.** The petitioner has relied upon the tender published during the election process in the State of Kerala and as per the pre-bid request of the petitioner, the authorities have issued the corrigendum and the petitioner has participated in the said tender. The eligibility criteria mentioned in the State of Kerala is that the bidder should have experience in executing live web streaming (with IP based HD web cameras– based audio and video from multiples locations) for elections conducted by the Election Commission of India (ECI)/ State Election Commission. The bidders should have successfully executed the following projects during the last three (3) years in India covering the following number of polling stations:

- a) *20,000 locations for polling and 2500 cameras for counting in a single order. (or)*
- b) *25,000 locations for polling and 3,000 cameras for counting in two orders. (or)*
- c) *30,000 locations for polling and 3500 cameras for counting in three orders.*

The petitioner has proposed for revising the eligibility criteria to the effect that the bidder should have experience in executing live web streaming (with IP based HD web cameras– based audio and video from multiple locations) for Elections conducted by Election Commission of

India (ECI)/ State Election Commission. The bidder should have successfully executed the following projects during the last three years in India covering the following number of polling stations:

- a) 20,000 locations for polling and cameras for counting in a single order. (or)*
- b) 25,000 locations for polling and cameras for counting in two orders. (or)*
- c) 30,000 locations for polling and cameras for counting in three orders.*

The suggestion of the petitioner was considered by modifying the clauses as follows:

- a) 15,000 locations for polling and 1750 cameras for counting in a single order. **(or)***
- b) 20,000 locations for polling and 2000 cameras for counting into orders. **(or)***
- c) 25,000 locations for polling and 3000 cameras for counting in three orders.*

20. Even the modification allowed by the State of Kerala is taken into consideration, it is found that 1000 cameras for counting a single order, 2000 cameras for counting in two orders and 3000 cameras for counting in three orders was allowed but in the present case, the petitioner has suggested at least one work order involving counting centre deployments or the bidders having experience or deploying a minimum 400 CCTV cameras as counting centre to participate in the tender, thus the suggestion which has been given by the petitioner in

the Pre-bid query is not equivalent to the changes/modification allowed at the time of Election in the State of Kerala.

- 21.** The petitioner has also relied upon the experience certificate showing that the petitioner has satisfactorily completed work of Webcasting in 81036 Polling Stations in 75 Districts and 80 Parliament Constituencies of Uttar Pradesh during Lok Sabha General Elections in seven (7) phases. But the said certificate does not reveal that in how many centres, the petitioners have provided CCTV camera. The petitioner has made a specific allegation that the tender conditions imposed by the authorities is tailor made in order to cater the 2 to 3 intending bidders who have only the requisite experience as per the tender conditions. The petitioner has made a specific allegation of tailor made conditions but has not disclosed the name of the intending bidders to whom the respondent authorities are intending to issue the work order for the said work.
- 22.** The petitioner has not participated in the present tender process as the petitioner is not having the requisite experience and has filed the present writ application challenging the eligibility criteria mentioned in Clause 4(a) and 4(b). It is submitted by Mr. Mookherjee representing the respondents that the four persons have already participated in the tender process having requisite qualifications. The petitioner has relied upon the judgment in the case of ***Vinishma Technologies Pvt. Ltd. (supra)*** wherein the Hon'ble Supreme Court held that the conditions imposed in the said tender curtails the fundamental rights of the

bidders, who have been ineligible to participate in the tenders but the said judgment is distinguishable from the facts and circumstances of the present case. In the said case, the conditions imposed by the authority that *“bidders must have supplied sports goods worth at least Rs. 6 cores (cumulative) to State Government agencies of Chhattisgarh in the last three financial years”*. The Hon’ble Supreme Court held that the conditions imposed by the authorities for supply of goods to the State Government agencies of Chhattisgarh is violative of Article 19(1)(g) of the Constitution of India but in the present case, the authorities have not imposed such conditions. The authorities have only ask for the experience of execution of live election web streaming orders cumulatively totaling is not less than 1,30,000 cameras for web streaming at polling stations and at least 3000 CCTV cameras installations in counting in India for CEO office or any Government Departments.

- 23.** The only contentions of the petitioner that the authorities have illegally incorporated the condition for installation of 3000 cameras for counting only to favour some intending bidders who are having such experience. The authorities have imposed the said conditions as the intending bidders have to install the camera in the counting centres. As per the data disclosed in the tender document, it reveals that there are altogether 80681 polling stations, 108 counting centres and 421 are the counting halls and thus in the counting centres and the counting halls

also required CCTV cameras due to which the said conditions have been incorporated in the tender document.

- 24.** In the case of ***Airport Authority of India (supra)***, the Hon'ble Supreme Court has categorically held that the Government and their undertaking must have a free hand in setting terms of the tender and only if it is arbitrary, discriminatory, mala fide or actuated by bias, the courts can interfere. The Hon'ble Supreme Court further held that the court cannot interfere with the terms of the tender prescribed by the Government because it feels that some other terms in the tender would have been fair, wiser or logical.
- 25.** In the present case, the authorities taking into consideration of the polling stations and the counting centres have imposed the conditions for having at least 3000 CCTV cameras in counting in India for CEO Office or any Government Departments/ PSUs and Government Agencies on behalf of the Election Commission of India during the three (3) financial years from the date of RFP. The petitioner is not having the said experience and at the pre-bid stage, the petitioner has participated in the pre-bid meeting and has submitted its suggestions but the authorities have not considered the request of the petitioner as the experience of counting stations is very much required to monitor the polling stations, counting centres and counting halls.
- 26.** Considering the above, this Court did not find any reason to interfere the terms and conditions imposed by the authorities in the tender

documents in Clause 4(a) and 4(b) of the eligibility criteria in participating in the tender process.

27. WPO No. 89 of 2026 is dismissed.

(Krishna Rao, J.)

Later:

After delivery of the judgment, Counsel for the petitioner prayed for stay of the order. Learned Counsel for the respondents raised objection. Heard the Learned Counsels for the respective parties. Prayer is refused.

(Krishna Rao, J.)