110
Supp

IN THE HIGH COURT OF JAMMU & KASHMIR AND LADAKH AT SRINAGAR

WP(C) 2796/2026 CM(7720/2026)
Caveat 2723/2026

FALCON COMT JV TH.ITS C.E.O AND OTHERS

….. Petitioner (s)

Through: Mr. Luqman S. Dar, Adv.

V/s

UNION TERRITORY OF J AND K (P.W.D.) AND OTHERS.

..... Respondent(s)

Through: Mr. Mohsin Qadiri, Sr. AAG
with Ms. Maha Majeed, AC
Mr. Sachin Gupta, Adv. (Through VC)

Coram:

Hon'ble Mr. Justice Sanjay Dhar, Judge

ORDER
06.11.2026

1. The petitioners, through the medium of present petition have challenged Technical Evaluation Summary No. CE/CK/WS/188850 dated 15th October, 2026 as also Adverse Technical Decision/Revised Summary dated 17th October, 2026 and Communication No. CE/R&B/CK/WS/18978-80 dated 17th October, 2026 in so far as the petitioners have been declared as non-responsive and their representation has been rejected.
2. Issue notice to the respondents.

3. Ms. Maha Majeed, learned Assisting Counsel and Mr. Sachin Gupta, Advocate accept notice on behalf of the respondents. Caveat stands discharged.
4. Heard learned counsel for the petitioners and perused the record.
5. It appears that bids were invited by respondent No. 4 vide e-NIT No. 29/KNR/3777-83 of 2026-27 dated 19.08.2026 for the following work:

> "Engineering, Procurement & Construction of "PM (Ekta) Mall (Basement+ground+4 Floors) at Kashmir Haat, Srinagar including all mechanical, electrical & plumbing (MEP) Services, External Site Development Works, Landscaping, Internal & External Utilities and all other allied works"

6. It seems that the petitioners as well as respondent No. 8 along with four more entities submitted their bids. Upon technical evaluation, the bids submitted by the petitioners were declared as non-responsive in terms of impugned Technical Evaluation Summary Sheet dated 15.10.2026 whereas other five bidders including respondent No. 8 were declared as technically responsive. It seems that the petitioners have filed representation against the rejection

of their bid with respondents which came to be rejected by the respondents in terms of impugned communication dated 17.10.2026.

7. The petitioners have challenged the impugned action of the respondents primarily on the ground that petitioner No. 1, a junior partner of joint venture, has adequate experience as per clause No. 1.5(b) of SBD regarding which it had furnished sufficient documents and material along with the bid document. It has been submitted that while making representation with the respondents, the petitioners have explained the manner in which petitioner No. 1 was fulfilling the criteria but inspite of the same, the respondents have rejected his representation.

8. With a view to determine the merits of the contention of the petitioners, it is necessary to have a look at the Clause 1.5(b) of SBD. The same reads as under:

> (b) Particular Construction Experience and Key Production Rates The applicant should have:
> e. Successfully completed or substantially completed similar works on EPC Mode during last five years ending last day of month previous to the one in which applications are invited should be either of the following:-

Three similar completed works costing not less than the amount equal to 40 (forty) percent of the estimated cost: or
Two similar completed works costing not less than the amount equal to 50 (fifty) percent of the estimated cost: or
One similar completed work costing not less than the amount equal to 80 (eighty) percent of the estimated cost:
Substantially completed works are allowed and means those works which are at least 90% completed as on the date of submission of bid (i.e. gross value of work done up to the last date of submission is 90% or more of the original contract price) and continuing satisfactorily.
For arriving at cost of similar work, the value of work executed shall be brought to current costing level by enhancing the actual value of work at simple rate of 7% (seven percent) per annum, calculated from the date of completion to the date of Bid opening. For this a certificate from employer shall be submitted along with the application incorporating clearly the name of the work, contract value, billing amount, date of commencement of works, actual date of completion of work, satisfactory performance of the contractor and any other relevant. The information. The certificate should be furnished as per format shown in qualification information section. **For arriving at cost of similar work, the value of work executed shall be brought to current costing level by enhancing the actual value of work at simple rate of 7% (seven percent) per annum, calculated from the date of completion to the date of Bid opening. For this a certificate from employer shall be submitted along with the application incorporating clearly the name of the work, contract value, billing amount, date of commencement of works, actual date of completion of work, satisfactory performance of the contractor and any other relevant information.**

9. It seems that a Corrigendum was issued by the respondent No. 4 vide No. 4144-50 of 2026-27 dated 03.09.2026 after holding pre bidding meeting on

31.08.2026. Vide the said Corrigendum, it was clarified that successful completed or substantially completed similar works during last five years would be inclusive of civil, mechanical and electrical works. In the present case, admittedly certificates with regard to previous experience of the petitioner No. 1 Company did not pertain to mechanical works which is an essential component of the work to be executed under the subject tender. Therefore petitioner No. 1 has rightly been disqualified by the respondents.

10. It has been contended by learned counsel for the petitioner that lead partner of JV was having experience in mechanical works as well, therefore, technical bid of the petitioners ought not to have been rejected. In this regard, it is to be noted that author of the tender document is the sole judge of its requirements and therefore this court cannot undertake a judicial review with regard to requirements of the tender. The contention is, therefore, without any merit.

11. Apart from above, the present petition has been filed by petitioner through Shri Numan Zahoor Peer. The petitioners are companies incorporated under the Companies Act. A Resolution from the Board of Directors of the Company petitioner companies said Shri Numan Zahoor Peer to file petition on their behalf is mandatory requirement. Even an averment that Shri Numan Zahoor Peer has been authorized by the Board of Directors to file the present petition, has been made in the writ petition. Therefore, the petition has been filed by an incompetent person. On this ground alone, the petition deserves to be dismissed.

12. For the foregoing reasons, I do not find any merit in the petition. The same is accordingly dismissed.

(Sanjay Dhar)
Judge

SRINAGAR
06.11.2026
Aasif

Whether the order is speaking Yes/No

Whether the order is reportable Yes/No