IN THE HIGH COURT OF JHARKHAND AT RANCHI
W.P. (C) No. 5235 of 2025

Terracis Technologies Limited (Formerly known as Ecentric Digital Limited), a Company Registered under the Companies Act, 2013, having it's Corporate Office at- 3rd Floor, Ambience Corporate Tower 1, Ambience Island, NH-8, P.O Sector 24, P.S DLF Phase 2 District- Gurugram, Haryana-122010, through it's Senior Manager Mr. Sajal Jain, Aged about 53 years, Son of D. P. Jain, residing at 1946, Ground Floor Outram Lines, Kingsway Camp, Near Guldasta Park, Mukherjee Nagar, P.O. & P.S.- GTB Nagar, North West Delhi, District-Delhi-110009.

... ... Petitioner

Versus

1. The State of Jharkhand.
2. Secretary, Department of Information Technology & e-Governance, Jharkhand, Ground Floor, Engineer's Hostel - I, Near Golchakkar, P.O. & P.S.- Dhurwa, District-Ranchi, Jharkhand-834004.
3. The CEO, Jharkhand Agency for Promotion of Information Technology (JAP-IT) Ground Floor, Engineer's Hostel - I, - Near Golchakkar, P.O. & P.S.- Dhurwa, District-Ranchi, Jharkhand-834004.
4. The Officer-on-Special Duty, Jharkhand Agency for Promotion of Information Technology (JAP-IT) Ground Floor, Engineer's Hostel - I, Near Golchakkar, P.O. & P.S.-Dhurwa, District-Ranchi, Jharkhand-834004.
5. The Registrar General, Jharkhand High Court, New Building P.O. &P.S.-Dhurwa, District- Ranchi, Jharkhand-834004.

… ... Respondents

CORAM : HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE RAJESH SHANKAR

For the Petitioner : Mr M. S. Mittal, Sr. Advocate
Mrs Swati Shalini, Advocate
For the Resp. Nos. 1 to 4 : Mr Ashutosh Anand, AAG-III
Ms Rishi Bharti, AC to AAG-III
For the Respondent No. 5: Dr (Mrs) Vandana Singh, Advocate

Reserved On: 23.04.2026 **Pronounced On: 27.04.2026**

Per M.S. Sonak, C.J.

1. Heard Mr M.S. Mittal, learned senior counsel with Mrs Swati Shalini, learned counsel for the petitioner, Mr. Ashutosh Anand, learned AAG-III for the respondent Nos. 1 to 4, as also Dr (Mrs) Vandana Singh, learned counsel for 5th respondent.

2. At the request of and with the consent of the learned counsel for the parties, this petition was heard finally on 23.04.2026 and closed for 'Orders'.

3. The petitioner, by invoking the extraordinary jurisdiction of this Court under Article 226 of the Constitution, has sought for the following substantive reliefs in this petition: -

> "*a. For issuance of appropriate writ(s)/ order(s)/direction(s), particularly in the nature of certiorari for quashing of the Intimation of Cancellation of Tender dated 21.08.2025 (Annexure-14), along with the Corrigendum for Cancellation, bearing PR Ref. No. 349383, (Annexure- 14/1), issued by the Respondent No. 4, whereby and whereunder, the respondent Authorities in a most mechanical and arbitrary manner, without assigning any cogent reasons have cancelled the NIT bearing Tender Ref.: JAPIT/HIGHCOURT-DMS/01/2025 for "Purchase, Installation, Configuration & Integration of two Server System (Live & Backup) & Other Equipment with 05 Years Comprehensive Warranty along with 24x7 Technical Manpower at Data Center of Hon'ble Jharkhand High Court, Ranchi" And,*
>
> *b. For further issuance of appropriate writ(s)/ order(s)/direction(s), particularly in the nature of certiorari for quashing of the Letter No. 1719 dated 13.06.2025 (Annexure-10), issued under the sign and seal of the Respondent No. 4, whereby and whereunder despite issuance of LOI in favor of the Petitioner, the Respondent No. 4 in a most arbitrary and whimsical manner, at a belated stage, on the grounds of Budgetary Constraint has directed the Petitioner to reduce the quoted price from Rs. 30,52,16,321/- to Rs. 22,86,027,91.70/-. And,*
>
> *c. For issuance of further appropriate writ(s)/ order(s)/direction(s) upon the Respondent authorities, directing them to execute the contract in furtherance of NIT bearing Tender Ref.: JAPIT/HIGHCOURT-DMS/01/2025 for "Purchase, Installation, Configuration & Integration of Two Server Systems (Live & Backup) and Other Equipment with 05 Years Comprehensive Warranty along with 24x7 Technical Manpower at the Data Center of the Hon'ble Jharkhand High Court, Ranchi," in favor of the Petitioner, inasmuch as the Petitioner has already been declared as the L-1 bidder and the Respondent authorities have issued the Letter of Intent (LOI) in its*

favor on 19.05.2025, pursuant to which the Petitioner has already furnished a Performance Bank Guarantee amounting to Rs. 1,52,60,816/- And,

d. During the pendency of this writ petition, Intimation of Cancellation of Tender dated 21.08.2025 (Annexure-14), and the Corrigendum for Cancellation, bearing PR Ref. No. 349383, (Annexure- 14/1), issued by the Respondent No. 4 may kindly be stayed; And,

e. (Amended vide order dated 09.03.2026) For issuance of further appropriate writ(s)/ order(s)/, direction(s) for quashing the bid No. GEM/2025/B/6984701 dated 10.12.2025 vide which the proposals for the same work that was earlier awarded to the petitioner vide letter dated 19.05.2025, bearing Letter No. 1433 have been floated by the respondents."

4. Mr Mittal submitted that the State or its Instrumentalities cannot, relying upon the clause that purportedly permits them to cancel any tender or decline to accept any tender bid without assigning any reasons, proceed to arbitrarily and without indicating any reason, cancel the tender. The arbitrary cancellation of the tender violates Article 14 of the Constitution and defies the doctrine of legitimate expectation. He relied on ***Shivnandan C.T. Vs. High Court of Kerala,*** (2024) 3 SCC 799 in support of this contention.

5. Mr Mittal submitted that even otherwise, arbitrary and unreasoned cancellation of the tender process or the contracts entered pursuant to such tender process violates Article 14 of the Constitution. He relied on the judgments of ***Golden Food Products India Vs. State of U.P***., (2026) SCC OnLine SC 24, ***Prakash Asphaltings & Toll Highways (India) Ltd. Vs. Mandeepa Enterprises and others***, [2025 SCC OnLine SC 1959], ***Mahabir Auto Stores and others Vs. Indian Oil Corporation and others,*** (1990) 3 SCC 752, **M/s *Star Enterprises and others Vs. City and Industrial Development Corporation Of Maharasthra Ltd. and others***, (1990) 3 SCC

280, ***Kalu Ram Ahuja and Another Vs. Delhi Development Authority and Another*** (2008) 10 SCC 696 and ***State of Uttar Pradesh Vs. Sudhir Kumar Singh and others***, (2021) 19 SCC 706 in support of this contention.

6. Mr Mittal submitted that, in this case, the petitioner was informed of the acceptance of its tender bid through a Letter of Intent (LOI). Post such acceptance, the petitioner was required to submit a performance bank guarantee for an amount of Rs. 1,52,60,816/-. He, therefore, submitted that there was a concluded contract between the parties and such a concluded contract could not have been arbitrarily terminated by the respondents without assigning any reasons or, in any event, on a cogent reason.

7. Mr Mittal submitted that there was no provision for any modification to the terms of the Notice Inviting Tender (NIT), and, in any event, clause 1.8 contemplates modification before the submission of bids. He submitted that in this case, modification was attempted after the petitioner was declared as a successful bidder, LOI was issued to the petitioner, and the petitioner was made to furnish a bank guarantee for Rs. 1,52,60,816/-. He submitted that this was in breach of the terms and conditions of the NIT and, consequently, is arbitrary, unreasonable, and null and void.

8. Mr Mittal submitted that there was no provision in the NIT under which the petitioner was called upon to reduce its duly accepted bid of Rs. 30.52 crores, which was incidentally the lowest bid, to Rs. 22.86 crores; such insistence of reduction was arbitrary, unreasonable, null and void. Therefore, merely because the petitioner refused to reduce its accepted bid of Rs. 30.52 crores, the respondents had no right or authority to cancel the entire tender process. Such cancellation is illegal, arbitrary, unconstitutional, null and void.

9. Mr Mittal submitted that from the perusal of the affidavit filed on behalf of Jharkhand Agency for Promotion to Information Technology (JAP-IT), it is evident that no reason or, in any event, no cogent reason is disclosed for cancellation of the tender process, after accepting the petitioner's bid. He submitted that the entire blame is sought to be placed on the High Court. Similarly, on perusal of the affidavit filed on behalf of the High Court, no reason as such is forthcoming for the cancellation of the tender, and the entire blame is sought to be apportioned to the JAP-IT. He submitted that neither the JAP-IT nor the High Court assumes responsibility for the cancellation of the tender, thereby rendering the cancellation unreasonable, arbitrary, unconstitutional, null and void.

10. For all the above reasons, Mr Mittal submitted that the arbitrary cancellation of the tender process warrants interference and an appropriate writ is liable to be issued to the respondents to execute the contract in furtherance of the NIT.

11. Mr Ashutosh Anand learned AAG-III, at the outset, submitted that the petitioner had suppressed the fact that, post the cancellation of the tender process for good and valid reasons, the JAP-IT returned the Earnest Money Deposit (EMD) amount of Rs. 60.00 lakhs to the petitioner on 22.08.2025, and the petitioner accepted the same without raising any protest.

12. Mr Ashutosh Anand submitted that this petition was instituted on the 6th of September. 2025, after accepting the EMD return, post the cancellation of the tender process. Therefore, on the suppression of material facts and the acquiescence, this petition ought not to be entertained and should be dismissed.

13. Mr Ashutosh Anand, without prejudice to the above, submitted that cogent reasons were given in the affidavit filed on behalf of JAP-IT for the cancellation of the tender process. He submitted that the JAP-IT was the Executing Agency of the contract for the purchase, installation, configuration and integration of two server systems and other equipment with a 05-year comprehensive warranty. This purchase, etc., was on behalf of the Jharkhand High Court. From the NIT, it was clear that the final acceptance of any bidder's bid was subject to approval by the High Court, since it was the High Court that was to pay for the purchase, etc., through funds received or receivable from the National Computer Committee, New Delhi. He submitted that the entire High Court budget for this project was in the range of Rs. 22.00-23.00 crores. Therefore, after receiving the petitioner's bid, the petitioner was called for negotiation to determine whether the bid amount could be reduced to bring it within the High Court's budgetary limits.

14. Mr Ashutosh Anand submitted that on three occasions, the petitioner sought an extension of time and finally expressed an inability to reduce the bid amount from Rs. 30.52 crores to Rs. 22.86 crores, even though a revised estimated proposal was made vide letter No. 224 dated 28.01.2025.

15. Mr Ashutosh Anand submitted that the JAP-IT placed the matter before the Computer and Digitization Committee of the High Court, informing the Committee that the petitioner was unwilling to negotiate on the bid. The JAP-IT also sought approval from the High Court for cancellation of the tender process, so that a fresh tender could be invited, based upon the revised proposals, so that the project could be completed within the budgetary limit of the High Court. Upon receipt of the High

Court's approval, the tender process was cancelled, and the EMD amount was returned to the bidders, including the petitioner. Mr Ashutosh Anand submitted that the petitioner having accepted the EMD amount of Rs. 60.00 lakhs without lodging any protest and further after suppressing this material fact, should not be allowed to maintain this petition.

16. Mr Ashutosh Anand submitted that in any event, the respondents had every right to reject the petitioner's bid before the execution of a contract. He pointed out that in this case, only an LOI was issued and that did not amount to any acceptance of the petitioner's offer. Therefore, the petitioner cannot seek relief requiring the respondents to execute a contract with the petitioner at the bid price of Rs. 30.52 crores, though this bid amount was well beyond the High Court's budgetary limits.

17. Mr Anand submitted that this petition seeks a decree of specific performance from this Constitutional Court on the mistaken premise that there was a concluded contract between the parties, and that only the formal execution of the contract document was pending or being unreasonably avoided. He submitted that such a writ petition ought not to be entertained, *inter alia*, because this was a case of a non-statutory contract and grant or refusal of relief as prayed for by the petitioner would involve adjudication into the disputed questions of fact.

18. Mr Anand finally submitted that cogent reasons were provided for the cancellation of the tender process. There was no arbitrariness or unreasonableness. None of the petitioner's vested or contractual rights was infringed. The petitioner cannot force or foist a contract upon the respondents in the facts and circumstances of the present case. The cancellation of the tender process was fair and carried out in a transparent

manner, after giving the petitioner an opportunity to reduce the bid amount, at least after the respondents offered revised proposals involving much less financing.

19. Mr Ashutosh Anand relied on ***Dresser Rand S.A. Vs. Bindal Agro Chem Ltd & Another***, (2006) 1 SCC 751 and ***Indore Vikas Praadhikaran (IDA) and Another Vs. Shri Humud Jain Samaj Trust & Another***, (2024) SCC OnLine SC 3511 and ***Tata Cellular Vs. Union of India***, (1994) 6 SCC 651 in support of his contentions.

20. Dr (Mrs) Vandana Singh, learned counsel for the Jharkhand High Court, submitted that the High Court had a budgetary constraint of Rs. 22.00-23.00 crores and had, therefore, made it clear that the project should be completed within this financial range. For this purpose, the High Court was always willing to revise the proposals. She submitted that the petitioner's bid was duly considered but was not found to be financially viable, and therefore JAP-IT was requested to commence negotiations with the petitioner.

21. Dr Singh submitted that the petitioner, after seeking three extensions, finally refused to reduce the bid amount or even the bid rates, so that the revised proposals could be executed within the range of Rs. 22.00-23.00 crores. In these circumstances, the High Court had no option but to permit the JAP-IT to cancel the entire tender process and go for a fresh tender process.

22. Dr Singh submitted that there was absolutely no arbitrariness or lack of transparency involved in the entire tender process. Cogent reasons and information have been furnished inter alia in the affidavits, and there was never any concluded contract with the petitioner.

23. Dr Vandana Singh submitted that the JAP-IT, for valid reasons, had every right to decline the petitioner's offer, even though the same may have been the lowest and the petitioner had no vested right to insist that its offer must, under all circumstances, be accepted simply because the same was the lowest from amongst the bidders. She submitted that this petition was misconceived and should be dismissed. She relied on ***Afcon Infrastructure Limited Vs. Nagpur Metro Rail Corporation Limited and Another*** [(2016) 16 SCC 818[and ***Prakash Asphaltings & Toll Highways (India) Ltd. Vs. Mandeepa Enterprises***, [2025 SCC OnLine SC 1959] in support of her contentions.

24. The rival contentions now fall for our determination.

25. To appreciate the rival contentions, it would be apposite to briefly summarise the factual contours of the controversy this petition raises.

26. JAP-IT invited online technical and financial proposals on behalf of the Jharkhand High Court (JHC) for the purchase, installation, configuration and integration of two server systems (live and back-up) and other equipment with a 05-year comprehensive warranty. The Request for Proposals (RFP) lists the role and responsibilities of JAP-IT and JHC.

27. The petitioner participated in the tender process by submitting its bid on 17.04.2025. There were two other tenderers, who also submitted their respective bids.

28. The technical bids of three bidders were opened on 21.04.2025. One of the bidders was declared technically disqualified, and the petitioner and M/S Blue Cloud Softech Solutions Limited were found technically qualified. The financial bids of the petitioner and M/s Blue Cloud Soft-tech Solutions Limited were opened on 19.05.2005. Since the petitioner was found to be L-

I, a computer-generated Letter of Intent (LOI) dated 19.05.2025, as opposed to a Letter of Acceptance (LOA), was issued to the petitioner.

29. Since the petitioner had quoted an amount of Rs. 30.52 crores, the petitioner, vide the LOI, was directed to submit a Bank guarantee within seven days in the amount of Rs. 1.52 crores corresponding to 5% of the bid amount. This the petitioner did on 26.01.2025.

30. The petitioner, vide email dated 03.06.2025, wrote to JAP-IT to execute the agreement/contract. It requested that the draft agreement/contract be shared. However, neither was any agreement/contract executed by JAP-IT with the petitioner, nor was any work order issued to the petitioner.

31. On 13.06.2025, however, the 4th respondent wrote to the petitioner to negotiate the bid amount, as the budgetary provision for the project was limited to Rs. 22.86 crores. This was because the bid amount exceeded the JHC's proposed budget. The petitioner sought an extension of time until 24.06.2025 to negotiate on the bid. On this date, the petitioner sought yet another extension till 27.06.2025. A third request was made on 27.06.2025 to extend the negotiation period until 07.07.2025. On 07.07.2025, the petitioner refused to negotiate on the bid price or revise the originally quoted rates.

32. The JAP-IT, after informing the JHC about the petitioner's refusal to negotiate, cancelled the tender process and decided to initiate a fresh procurement (re-tender), this time, referring to the budget capping to ensure competitive and justified pricing for the revised proposal. After completion of the necessary formalities, vide impugned communication dated

21.08.2025, the RFP / tender was cancelled, and such cancellation was published on the portal and in some specified newspapers.

33. Since an issue arose as to why the EMD of almost Rs. 60.00 lakhs made by the petitioner was not immediately returned or why no prayer was made by the petitioner for return of this EMD, Mr Ashutosh Anand submitted that because of the absence of any relief relating to the EMD and the performance bank guarantee, he had no ready instructions with him on these issues. However, he submitted that by 4.00 pm on 23.04.2026, he would seek the instructions on these issues.

34. Mr Ashutosh Anand then submitted a computerised document showing that the EMD of Rs. 60.00 lakhs was, in fact, refunded to the petitioner on the very next day, i.e. 22.08.2025, because, by communication dated 21.08.2025, the entire tender process had been cancelled. Mr Ashutosh Anand also produced on record the communication dated 18.02.2026 addressed to the petitioner's banker, M/s ICICI Bank Limited, regarding the cancellation of the tender and the bank guarantee becoming null and void due to such cancellation. This communication stated that official information had already been communicated to the petitioner through the Jharkhand Tender Portal.

35. This petition was filed on 06.09.2025, *inter alia*, to question the tender cancellation communication dated 21.08.2025. The factum of the return and acceptance of the EMD of Rs. 60.00 lakhs due to the cancellation of the entire tender process were not disclosed in the petition. Consequently, there is no averment in the petition that the acceptance of this amount and the return of this EMD amount were under protest or without prejudice to challenge the tender cancellation notice dated 21.08.2025.

36. Similarly, there is no reference to the JAP-IT's communication regarding the bank guarantee, though this communication states that information in this regard was already communicated to the petitioner through the Jharkhand Tender Portal.

37. Though the impugned tender cancellation communication refers to the administrative reasons for the cancellation of the tender, from the counter affidavit filed by the JAP-IT and JHC, it is evident that such cancellation of the tender process was because the budget for the entire project was in the range of Rs. 22.00-23.00 crores, and the petitioner's bid was almost Rs. 31.00 crores. Even after revising the specifications, the petitioner was unwilling to negotiate and reduce the bid in the range of Rs. 22.00-23.00 crores, which was the budgetary constraint faced by the JHC. Therefore, this is not a case where the cancellation of the tender process was unreasoned, as has been alleged by the petitioner in the petition.

38. Upon due consideration of the rival contentions, in the context of the above-referred factual contours, we are satisfied that it is not a fit case for granting the petitioner any of the reliefs sought for in this petition. The reasons for these conclusions are discussed hereafter.

39. Following the cancellation of the entire tender process by the impugned communication dated 21.08.2025, on the very next date, the petitioner's EMD of Rs. 60.00 lakhs was returned by the JAP-IT to the petitioner. There is nothing on the record to suggest that the petitioner accepted such an amount under protest or without prejudice to its rights to challenge the impugned tender cancellation communication dated 21.08.2025. This would suggest acquiescence, which is a good ground for denying relief to the petitioner.

40. However, more serious is the circumstance that the petitioner, after having received the refund of EMD on 22.08.2025, did not bother to or rather suppressed, indicate this fact in this petition, which was filed on 06.09.2025. The circumstances regarding the receipt of the refund of the EMD amount of Rs. 60.00 lakhs and its acceptance without any protest were material facts, since the petitioner was praying for interim relief in this matter, or otherwise. Such suppression also disentitled the petitioner to any equitable relief in this petition.

41. However, we clarify that we do not wish to non-suit the petitioner on the two grounds mentioned above, because those grounds were not raised in the counter-affidavits filed on behalf of the respondents, and it should not be taken that the petitioner did not have an adequate opportunity to address these issues of acquiescence or suppression of material facts. Even the learned counsel for the petitioner was unaware of the acceptance of the EMD or the letter regarding the PBG. Had they been aware, we have no doubt that the same would have found place in the pleadings, possibly with some explanation.

42. Therefore, we have examined the petitioner's contentions, ignoring the issues of acquiescence and non-disclosure of material particulars. Even after evaluating those contentions, we are satisfied that no case has been made out for the grant of any relief to the petitioner in this petition.

43. As explained by the Hon'ble Supreme Court in the case of **Tata Cellular (Supra),** a tender or an RFP is only an invitation to offer. It is something that invites and is communicated to convey acceptance. Pursuant to the Notice Inviting Tender (NIT) or an RFP, the bidder submits its bid,

which is its offer. After that, it is for the party that issued the NIT or RFP to accept or reject the bid.

44. Although the principles of judicial review would apply to the exercise of contractual powers by Government bodies to prevent arbitrariness or nepotism, it must be clearly stated that there are inherent limitations on the exercise of the power of judicial review, as pointed out in Paragraph 70 of **Tata Cellular** (**Supra**). The Government is the guardian of the State's finances and is expected to protect the State's financial interests. The right to refuse the lowest or any other tender is always available to the Government. However, the principles laid down in Article 14 of the Constitution must be kept in mind when accepting or rejecting a tender. There can be no question of infringement of Article 14 if the Government seeks the best person or the best quotation. The right to choose cannot be regarded as an arbitrary power. Of course, if the said power is exercised for even a collateral purpose, or if mala fide is involved, the exercise of that power will be struck down.

45. **Tata Cellular (Supra)** explains that judicial quest in administrative matters has been to find the right balance between the administrative discretion to decide matters, whether contractual or political in nature, or issues of social policies; thus, they are not essentially justiciable and the need to remedy any unfairness. Such unfairness is remedied by judicial review. Judicial review is concerned with reviewing not the merits of the decision in support of which the application for judicial review is made, but the decision-making process itself.

46. In Paragraph-77 of **Tata Cellular (Supra),** the Hon'ble Supreme Court has explained that the duty of the Court exercising the powers of judicial review is to confine itself to the question of the legality of the

decision. Its concern should be whether a decision-making authority exceeded its powers, committed an error of law, committed a breach of the rules of natural justice, reached a decision which no reasonable tribunal would have reached, or abused its powers. Three main grounds for exercising the powers of judicial review are therefore illegality, irrationality and procedural impropriety.

47. In the present case, there are no allegations of malafides made in the petition. There are also no allegations of any extraneous consideration vitiating the decision-making process. The petition was based on the premise that the decision to cancel the entire tender process was unreasonable in the sense that the impugned cancellation communication contained no reasons, or the affidavit filed in the petition also disclosed no reasons, or, in any event, cogent reasons. Arguments were also advanced that it was impermissible to insist upon any negotiation after the financial bid was opened, or to change the specification and, based thereon, even request the lower bidder to offer a lower rate or bid amount.

48. From the contours of the facts narrated above, we are satisfied that this was not a case of a concluded contract merely because a computer-generated LOI was issued to the petitioner after the petitioner was found to be the successful bidder, i.e., L-1. A contract was never entered into between JAP-IT and the petitioner. No work order was also issued by JAP-IT or the JHC to the petitioner. Based on the material on record, therefore, and considering the nature of jurisdiction that this Court exercises under Article 226 of the Constitution, it is difficult to accept that there was some concluded contract between the petitioner and JAP-IT and/or JHC. Even the petitioner does not allege a concluded contract with the JHC.

49. In **Dresser Rand S.A (Supra),** the Hon'ble Supreme Court at paragraphs-39 and 40 has explained that it is now well settled that a letter of intent merely indicates a party's intention to enter into a contract with the other party in future. A letter of intent is not intended to bind either party ultimately to enter into any contract.

50. After referring to **Rajasthan Coop. Dairy Federation Ltd. versus Maha Laxmi Mingrate Marketing Service (P) Ltd.[(1996) 10 SCC 405],** the Hon'ble Supreme Court explained that the letter of intent merely expressed an intention to enter into a contract. There was no binding legal relationship between the parties at this stage, and the appellant was entitled to look at the totality of circumstances in deciding whether to enter into a binding contract with the 1st respondent or not.

51. Therefore, the relief in terms of the prayer clause-c of this petition seeking a direction upon the respondent authorities to execute a contract in furtherance of the NIT or RFP cannot be granted. In any event, this relief is in the nature of a decree for specific performance, which is ordinarily not entertained or granted in the exercise of the High Court's extraordinary jurisdiction. The grant or refusal of such a relief would involve an investigation into the disputed questions of fact and have regard to a host of considerations that go into the grant or refusal of such relief in the contractual sphere.

52. For the petitioner to succeed, the petitioner had to establish that the cancellation of the entire tender process was for some malafide reasons or extraneous consideration. Failing this, the petitioner had to establish that such cancellation was ex facie arbitrary, unreasoned, merely a product of whim and caprice, thereby ex facie arbitrary and violative of Article 14 of

the Constitution, or at least the petitioner ought to have made out a case of such a decision for cancellation being vitiated by illegality, irrationality and procedural impropriety.

53. As noted earlier, there are no allegations of mala fides or extraneous considerations. This is not a case of unreasoned or even unreasonable cancellation of the tender process. The affidavits filed by JAP-IT and JHC set out the reasons for cancelling the entire tender process. Ultimately, this project was for the JHC, and JAP-IT was engaged to invite tenders to execute it on behalf of JHC. Records show that the budgetary provision for this project with the JHC was in the range of Rs. 22.00-23.00 crores.

54. Though the petitioner's bid may have been the lowest, it was still in the range of Rs. 31.00 crores or above. Therefore, the JHC informed the JAP-IT to negotiate the rates with the petitioner. Even the specifications were scaled down in the hope that the petitioner would proportionately reduce its bid to match the budget available to the JHC for this project. Even after the revised and scaled-down specifications, the petitioner expressed an inability to reduce its bid.

55. Under the above circumstances, it cannot be said that the JAP-IT or the JHC acted arbitrarily or lacked valid reasons for opting to cancel the entire tender process and invite a fresh tender based on the scaled-down requirements. There was complete transparency in the process, with no arbitrariness or unreasonableness.

56. The arguments on behalf of the petitioner as to how its bid was the most competitive or on some technical aspects of the project cannot be considered in this proceeding. As held in **Tata Cellular (Supra),** in such matters, judicial review concerns the decision-making process, not the merits

of the decision itself. Here, there is nothing to fault the decision-making process, or, for that matter, the decision itself.

57. The arguments that the specifications should have been finalised before the opening of the bids, etc., are not entirely convincing in the facts and circumstances of the present case. Only after the opening of the bids from the two technically qualified bidders, JAP-IT and JHC, did they realise that the bids were well beyond the budgetary provisions. Therefore, as a measure of reasonableness, some negotiation was proposed. After that, even the specifications were scaled down to see whether lower amounts could be agreed upon to execute the scaled-down specifications, so that the budgetary limits were not breached or strained. All this does not fall within the realm of arbitrariness or unreasonableness, as alleged by the petitioner in this petition.

58. The decisions relied upon by Mr Mittal in support of this petition only point out that the cancellation of the tender process is permissible if such cancellation is not the product of any arbitrariness, unreasonableness or malafides. In the present case, these decisions would not apply because the cancellation cannot be held to be either unreasoned or arbitrary or unreasonable.

59. In **Golden Food Products India (Supra),** the Hon'ble Supreme Court was concerned with the auction process in which the reserve price had been fixed and the highest bid exceeded it. Hon'ble Court found that such the highest bid was discarded without any rationale or reasons for not accepting it. Such is not the case at all in the present matter.

60. **Prakash Asphaltings and Toll Highways (India) Limited (Supra)** holds that the mere possibility of more money in the public coffers does not

in itself serve public interest and that consideration of public interest should not be narrowly confined to the financial aspect only. Again, facts in this case offer no parallel words to those in the present case. Incidentally, this decision reminds the courts that while judicial review is not excluded to assail the administrative decisions even in matters of tender and contract, there is a long line of consistent judicial pronouncements that the Constitutional Courts should exercise utmost restraint in interfering with the tender process unless the threshold of judicial review is met.

61. **Mahabir Auto Stores (Supra)** provides that even in the contractual field, the government or its agencies cannot act unfairly or arbitrarily. **M/s Star Enterprises (Supra)** provides that while dealing with the tender, the State is entitled to look for the best deal, and for that, it can refuse to accept even the highest bid. But while rejecting the highest offer in the tender, it must record the reasons for such action and communicate them to the parties. Here, it is not as if there were no reasons for the decision to cancel the entire tender process. This is not the case where the highest tenderer's bid was rejected, and the works were awarded to another bidder/tenderer.

62. **Kalu Ram Ahuja** (*supra*) reiterates that the rejection of the highest bid without assignment of any reason is not proper. Again, this was an auction, and the highest bidder bid over and above the reserve price.

63. **Sudhir Kumar Singh** (*supra*) is concerned with the application of principles of natural justice even in the contractual spheres. Such an issue does not strictly speaking arise in this matter. In any event, the cancellation of the entire tender process is not due to anything adverse against the petitioner herein. The cancellation is due to the petitioner's bid being well above the budgetary provisions set by the JHC for this project. The decision

cited even refers to the requirement that the party alleging breach of natural justice plead and establish prejudice on account of non-compliance.

64. In **Afcons Infrastructure Limited** (*supra*), the Hon'ble Supreme Court has held that the decision-making process in accepting or rejecting the bid should not be ordinarily interfered with, unless the decision-making process suffers from mala fides or is intended to favour someone. Interference is also permissible if the decision is arbitrary or irrational or is such that no responsible authority acting reasonably in accordance with law would have reached such a decision. Further, perversity of the decision-making process or decision, and not merely a faulty, erroneous or incorrect approach, is one of the grounds for interference by Courts.

65. The Hon'ble Supreme Court held that the Constitutional Courts are expected to exercise restraint when interfering with administrative decisions and ought not to substitute their view for that of the administrative authority. Even a mere disagreement with the decision-making process or the authority's decision is no reason for a Constitutional Court to interfere. The Constitutional Courts must defer to this understanding and appreciation of the tender documents unless there is mala fides or perversity in the understanding or appreciation, or in the application of the terms of the tender conditions.

66. Applying the above principles to the facts of this case, the decision-making process cannot be faulted. This is also not a case of arbitrary or unreasoned cancellation of the tender process. There are no allegations of mala fides, nepotism or any other extraneous considerations vitiating the decision or the decision-making process. This is also not a case of a concluded contract, as was sought to be projected. The Petitioner was

offered opportunities to negotiate the rates, given JHC's financial constraints. Even the specifications were scaled down to see whether the Petitioner could proportionately reduce the rates.

67. There was no compulsion on the petitioner to either negotiate or scale down the rates, but then the petitioner cannot also object to the offer of negotiations or force the respondents to accept its bid/offer on the sole premise that it was the lowest. In such matters, free play in the joints must be accorded to the respondents, provided that the decision-making process is transparent and not arbitrary.

68. For all the above reasons, we see no merit in this petition and consequently dismiss the same, without any order for costs.

(M.S. Sonak, C.J.)

(Rajesh Shankar, J.)

April 27, 2026
Ranjeet / R.Kr.
AFR
Uploaded on 27.04.2026