

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-39639-2025 (O&M)

M/s Jyoti Electricals and another
.....Petitioners
versus

Post Graduate Institute of Medical Education & Research (PGIMER),
Chandigarh and others
.....Respondents

1.	The date when the judgment is reserved	13.02.2026
2.	The date when the judgment is pronounced	24.03.2026
3.	The date when the judgment is uploaded on the website	27.03.2026
4.	Whether only operative part of the judgment is pronounced or whether the full judgment is pronounced	Full
5.	The delay, if any, of the pronouncement of full judgment, and reasons thereof	Not applicable

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL
HON'BLE MS. JUSTICE LAPITA BANERJI

Present: Mr. Aditya Grover, Advocate and
Ms. Divya Arora, Advocate, for the petitioners.

Mr. Avinit Avasthi, Advocate
Ms. Kriti Avasthi, Advocate and
Mr. Nikhil Goyal, Advocate, for respondents No.1 and 3.

Mr. Pritpal Singh Nijjar, Advocate, for respondent No.2.

Dr. Pankaj Nanhera, Senior Advocate with
Mr. Anurag Mor, Advocate
Mr. Ashish Naik, Advocate and
Ms. Ishita Arora, Advocate, for respondent No.4.

Mr. Aman Pal, Senior Advocate with
Mr. Balraj Sharma, Advocate
Ms. Neha Rani, Advocate and
Mr. Rajender Kumar, Advocate, for respondent No.5.

**CWP-39639-2025 (O&M)*****/2/*****DEEPAK SIBAL, J.**

1. Through the instant petition, the petitioners challenge communication dated 23.12.2025, through which the Postgraduate Institute of Medical Education and Research, Chandigarh (hereinafter referred to as the Institute) has rejected petitioner No.1's technical bid submitted by it in pursuance to a notice inviting tender bearing No.PGI/Engg./Elec./2025-26/18 (for short – the second NIT).

THE FACTS

2. Petitioner No.1 is a sole proprietorship concern and petitioner No. 2 is its sole proprietor. Petitioner No.1 is engaged in the execution of electrical works in public institutions including the Institute and claims to have an unblemished track record. In May 2025, through a notice inviting tender bearing No.PGI/Engg./Elec./2025-26/05 (for short – the first NIT) the Institute invited bids for installation and maintenance of a gas based fire suppression system in all electrical panels at various locations of the Institute. The bid, along with the supporting documents, was required to be scanned and uploaded on the Institute's website by 11:00 a.m. of 13.05.2025. As per clause No.1(c) under Section-III of the first NIT, which is relevant, amongst other documents, the bidder was required to upload an authorization certificate/undertaking from the Original Equipment Manufacturer (for short – the OEM) that the OEM would technically support the bidder throughout the execution of the contract and for the comprehensive maintenance for the useful life of the system as also that the OEM would provide all the spares required for the healthy functioning of the firefighting equipment for at least 07 years from the date of its installation.

**CWP-39639-2025 (O&M)*****[3]***

3. In pursuance to the first NIT the petitioner submitted its bid along with the required supporting documents which included a certificate from the OEM dated 15.05.2025 which was in terms of the afore referred clause 1(c) under Section-III of the first NIT.

4. The first NIT, published in May 2025, lapsed.

5. On 15.11.2025, for the same work, as above, through the second NIT, the Institute invited fresh bids. In response to the second NIT, the last date to submit bids was 02.12.2025 and the date for opening of eligibility-cum-technical bids was 03.12.2025. In the second NIT, clause No.1(c) under Section III, with regard to submission of undertaking / authorization certificate by the OEM was the same as in the first NIT.

6. Responding to the second NIT, petitioner No.1 applied afresh. In support of its bid, along with other documents, purportedly, in terms of clause No.1 (c) contained in Section III of the second NIT, petitioner No.1 uploaded a copy of the OEM's undertaking / authorization certificate dated 15.05.2025 which had earlier been uploaded by it in response to the first NIT.

7. On 03.12.2025, the technical bids were opened and through communication dated 06.12.2025, the Institute sought certain clarifications from petitioner No.1 which were duly responded to. Thereafter, on 09.12.2025 petitioner No.1 wrote to the Institute bringing to its notice that the copy of the OEM's undertaking dated 15.05.2025, uploaded in pursuance to the second NIT, was for the same work for which bids had been earlier invited by the Institute through the first NIT and that in such undertaking the OEM had clearly undertaken to provide full technical support not only at the time of installation of the gas based fire suppression system at various

**CWP-39639-2025 (O&M)*****[4]***

locations in the Institute but also to provide all necessary spares for at least 07 years thereafter. The Institute then wrote to the OEM, a copy of whose undertaking dated 15.05.2025 had been uploaded by petitioner No.1 in support of its bid. The Institute sought to confirm from the OEM with regard to the issuance of the undertaking submitted by petitioner No.1 on its behalf. In response to the said communication, the OEM, through its letter dated 08.12.2025, informed the Institute that with regard to the second NIT, the OEM had not issued any authorization or undertaking in favour of petitioner No. 1. On 11.12.2025, a committee of experts was constituted by the Institute to evaluate the bids submitted in response to the second NIT. Such committee noticed that in the light of the OEM's response dated 08.12.2025, petitioner No.1 was ineligible and that with regard to three other bidders, verification of the undertakings submitted by them from their respective OEMs be also made. Accordingly, letters were written by the institute to the OEMs of the said three bidders and their respective OEMs acknowledged the submission of their respective undertakings. Thereafter, on 22.12.2025 the expert committee again met and after declaring the other three bidders to be eligible, permitted the opening of their financial bids, which was done. Out of the said three bidders, respondent No.4's bid was found to be the lowest and it was decided that respondent No.4 be allotted the tender. Through letter dated 23.12.2025, petitioner No.1 was informed that it had been declared ineligible and the reasons, as above, were also communicated. It is in these circumstances that the petitioners have knocked the doors of this Court for the grant of the aforesaid relief.

**CWP-39639-2025 (O&M)*****/5/***

8. Learned counsel for the petitioners submitted that in May 2025, through the first NIT bearing No.PGI/Engg./Elec./2025-26/05, the institute invited bids for installation and maintenance of a gas based fire suppression system in all electrical panels at various locations of the Institute; as per clause 1(c) under Section III of the first NIT, all bidders were required to upload a certificate from the OEM to the effect that the OEM had authorized the bidder to bid for the work in question and that the OEM would technically support the tenderer not only throughout the execution of the contract but also towards its maintenance and that the OEM would provide all the spares required for the healthy functioning of the equipment for at least 07 years from the date of its installation; in response to the first NIT, along with its bid, petitioner No.1 submitted the required OEM authorization certificate dated 15.05.2025; the first NIT lapsed and for the same work a second NIT bearing No.PGI/Engg./Elec./2025-26/18 was published by the institute; since the work in question in the first and the second NIT was the same, in response to the second NIT, petitioner No.1, along with his bid uploaded a copy of the same OEM's authorization certificate dated 15.05.2025; through the impugned action the institute has rejected the petitioners' technical bid on the ground that the OEM's authorization certificate submitted by the petitioners did not mention the reference number of the second NIT which rejection is arbitrary and perverse because the requirement as per clause 1(c) under Section III of the second NIT was for uploading the OEM's authorization certificate pertaining to the "work in question" irrespective of the number of the NIT and especially when in relation to the cost of the project which was Rs.4.88 crores, petitioner No.1 had offered to execute the same at a discount

**CWP-39639-2025 (O&M)****[6]**

of 45% whereas the successful bidder-respondent No.4 has offered a discount of only 3.5%.

9. In the light of the above, learned counsel for the petitioners submitted that the institute had rejected the petitioners' bid by adopting a hyper technical approach which is legally impermissible especially when the petitioners were willing to do the same work for a much lesser amount and thereby saving public money.

10. Learned counsel for the petitioners further alleged *mala fides* by submitting that in July 2025, in the premises of the institute, petitioner No.2 and respondent No.2 had a scuffle leading to respondent No.2 assaulting petitioner No.2; in this regard petitioner No.2 had approached the police but later, though the matter was compromised, respondent No.2 continued to bear a grudge against petitioner No.2 and orchestrated rejection of petitioner No.1's bid submitted in response to the second NIT.

11. In support of his contentions, learned counsel for the petitioners has relied on the following two judgments of the Supreme Court:-

1. *M/s Shanti Construction Pvt. Ltd. vs. State of Odisha & others*, AIR 2025 SC 5516.

2. *M/s B.S.N. Joshi and Sons Ltd. Vs. Nair Coal Services Ltd. and others*, (2006) 11 SCC 548.

12. Learned counsel for the respondent-institute submitted that in response to the second NIT the petitioners' bid was accompanied by OEM's authorization certificate dated 15.05.2025; since such certificate was about six months old and did not pertain to the second NIT, the institute wrote to the OEM seeking it to confirm the issuance of the authorization certificate dated 15.05.2025; through communication dated 08.12.2025, the OEM

**CWP-39639-2025 (O&M)****[7]**

informed the institute that for the second NIT, the OEM had not issued any authorization certificate to petitioner No.1; on the basis of the said information, petitioner No.1's technical bid was rejected; similar verifications were also done by the Institute *qua* the other bidders and only when their respective OEM authorization certificates were verified, their financial bids were opened; respondent No.4's bid having been found to be the lowest was accepted and that in the light of the above, the petitioner No.1's technical bid was rightly rejected in terms of clause 1(c) under Section III of the second NIT and not on account of any *mala fides*, as alleged, especially when the decision to award the tender to respondent No.4 was not taken by respondent No.2, against whom *mala fides* are alleged, but by an expert group which comprised of senior doctors of the institute as also outside experts.

13. In support of his contentions, learned counsel for respondent-institute has relied on the following judgments of the Supreme Court:-

1. *Afcons Infrastructure Vs. Nagpur Metro Rail Corporation* (2016) 16 SCC 818.
2. *Agmatel India Private Ltd. Vs. ResourSYS Telecom & Ors.* (2022) 5 SCC 362 and
3. *Prakash Asphaltings and Toll Highways (India) Ltd. Vs. Mandeepa Enterprises and others*, 2025 SCC Online SC 1951.

14. Learned senior counsel appearing for respondent No.5 - the OEM whose authorization certificate was uploaded by the petitioners categorically denied the fact that respondent No.5 had permitted the petitioners to submit any authorization certificate on its behalf in terms of clause 1(c) under Section III of the second NIT.

**CWP-39639-2025 (O&M)****/8/**

15. Learned counsel for respondent No.2 vehemently denied the allegations of *mala fide* raised on behalf of the petitioners; petitioner No.2 was in the habit of making vague and reckless allegations and this was clear from its communication dated 08.12.2025 (Annexure P-7) wherein petitioner No.2 had raised allegations of *mala fide* not against respondent No.2 but also against respondent No.3 and had rather threatened him with consequences in case petitioner No.1's bid was rejected.

16. Learned counsel for respondent No.2 relied on the following judgments of the Supreme Court: -

1. *N. G. Projects Ltd. Vs. Vinod Kumar Jain and others – (2022) 6 SCC 127.*
2. *Mutha Associates and others Vs. State of Maharashtra and others – (2013) 14 SCC 304.*

17. Learned senior counsel appearing for respondent No.4 adopted the submissions made on the respondent-institute's behalf.

18. Learned counsel for the parties have been heard and with their able assistance the record of the case has also been carefully examined.

19. In **Tata Cellular vs. Union of India (1994) 6 SCC 651** the Supreme Court, after scanning the entire law on the scope and ambit of judicial review with regard to tender matters, held that ordinarily, in tender matters, the Courts would exercise judicial restraint; Courts would not sit in appeal over decisions taken by the authorities in tender matters but should merely review the manner in which the decision was taken; the Courts would not have the expertise to correct administrative decisions taken in such matters and if a review of such decisions would be permitted it would lead to substituting administrative decisions by the decisions of the Court without

**CWP-39639-2025 (O&M)****[9]**

the necessary expertise which in itself may be fallible; the terms of the invitation to tender could ordinarily not be subjected to judicial scrutiny because these terms are in the realm of a contract; the government must have the freedom to enter into contracts and in this regard is expected to act fairly; however, such decisions would have to pass the test of reasonableness and must be free from arbitrariness, not affected by bias or actuated by *mala fides*; quashing of administrative decisions by Courts pertaining to tender matters may impose heavy administrative burden and may lead to increased and unbudgeted expenditure.

20. The principles laid down by the Supreme Court in **Tata Cellular's** case (supra) read as under: -

“(1) The modern trend points to judicial restraint in administrative action.

(2) The court does not sit as a court of appeal but merely reviews the manner in which the decision was made.

(3) The court does not have the expertise to correct the administrative decision. If a review of the administrative decision is permitted it will be substituting its own decision, without the necessary expertise which itself may be fallible.

(4) The terms of the invitation to tender cannot be open to judicial scrutiny because the invitation to tender is in the realm of contract.

Normally speaking, the decision to accept the tender or award the contract is reached by process of negotiations through several tiers. More often than not, such decisions are made qualitatively by experts.

*(5) The Government must have freedom of contract. In other words, a fair play in the joints is a necessary concomitant for an administrative body functioning in an administrative sphere or quasi-administrative sphere. However, the decision must not only be tested by the application of Wednesbury principle of reasonableness (including its other facts pointed out above) but must be free from arbitrariness not affected by bias or actuated by *mala fides*.*



CWP-39639-2025 (O&M)

[10]

(6) Quashing decisions may impose heavy administrative burden on the administration and lead to increased and unbudgeted expenditure.”

21. In **B. S. N. Joshi and Sons Ltd. vs. Nair Coal Services Ltd.**

(2006) 11 SCC 548 after holding that in tender matters the employer would be the best judge and that constitutional Courts would ordinarily exercise judicial restraint in interfering with such matters, the Supreme Court laid down the following principles: -

“i) If there are essential conditions, the same must be adhered to.

ii) If there is no power of general relaxation, ordinarily the same shall not be exercised and the principle of strict compliance would be applied where it is possible for all the parties to comply with all such conditions fully.

iii) If, however, a deviation is made in relation to all the parties in regard to any of such conditions, ordinarily again a power of relaxation may be held to be existing.

iv) The parties who have taken the benefit of such relaxation should not ordinarily be allowed to take a different stand in relation to compliance of another part of tender contract, particularly when he was also not in a position to comply with all the conditions of tender fully, unless the court otherwise finds relaxation of a condition which being essential in nature could not be relaxed and thus the same was wholly illegal and without jurisdiction.

v) When a decision is taken by the appropriate authority upon due consideration of the tender document submitted by all the tenderers on their own merits and if it is ultimately found that successful bidders had in fact substantially complied with the purport and object for which essential conditions were laid down, the same may not ordinarily be interfered with.

(vi) The contractors cannot form a cartel. If despite the same, their bids are considered and they are given an offer to match with the rates quoted by the lowest tenderer, public interest would be given priority.

(vii) Where a decision has been taken purely on public interest, the Court ordinarily should exercise judicial restraint.”

22. In **Afcons Infrastructure Limited vs. Nagpur Metro Rail**

Corporation Limited and another (2016) 16 SCC 818 the Supreme Court

**CWP-39639-2025 (O&M)****[11]**

held that in tender matters a mere disagreement with the decision-making process or the decision of the authority would not be the only reason for a constitutional Court to interfere and that the threshold of *mala fides*, intention to favour someone or arbitrariness, irrationality or perversity must be met before a constitutional Court interferes with such decision-making process or the decision itself. The Supreme Court further went on to hold that the employer of the project having authored the tender documents would be best suited to understand its requirements and interpret such documents. A constitutional Court must defer to this understanding and appreciation of the tender documents unless there is *mala fide* or perversity in the understanding or appreciation or in the application of the terms of the tendered conditions. In this regard paragraphs 13 and 15 of the judgment are reproduced below for ready reference: -

“13. In other words, a mere disagreement with the decision-making process or the decision of the administrative authority is no reason for a constitutional court to interfere. The threshold of mala fides, intention to favour someone or arbitrariness, irrationality or perversity must be met before the constitutional court interferes with the decision-making process or the decision.

14. xx xx xx xx xx

15. We may add that the owner or the employer of a project, having authored the tender documents, is the best person to understand and appreciate its requirements and interpret its documents. The constitutional courts must defer to this understanding and appreciation of the tender documents, unless there is mala fide or perversity in the understanding or appreciation or in the application of the terms of the tender conditions. It is possible that the owner or employer of a project may give an interpretation to the tender documents that is not acceptable to the constitutional courts but that by itself is not a reason for interfering with the interpretation given.”

**CWP-39639-2025 (O&M)****[12]**

23. In **Silppi Constructions Contractors vs. Union of India and another (2020) 16 SCC 489** the Supreme Court held that constitutional Courts should exercise restraint and caution while dealing with tender matters and that the Courts should give way to the opinion of the experts unless such decision is perverse because in such matters the Court does not sit as a Court of appeal and that the authority floating the tender is the best judge of its requirements. In this regard, the following paragraph of the judgment may usefully be referred to: -

“20. The essence of the law laid down in the judgments referred to above is the exercise of restraint and caution; the need for overwhelming public interest to justify judicial intervention in matters of contract involving the State instrumentalities; the courts should give way to the opinion of the experts unless the decision is totally arbitrary or unreasonable; the court does not sit like a court of appeal over the appropriate authority; the court must realise that the authority floating the tender is the best judge of its requirements and, therefore, the court’s interference should be minimal. The authority which floats the contract or tender, and has authored the tender documents is the best judge as to how the documents have to be interpreted. If two interpretations are possible then the interpretation of the author must be accepted. The courts will only interfere to prevent arbitrariness, irrationality, bias, mala fides or perversity. With this approach in mind we shall deal with the present case.”

24. In **M/s Shanti Construction Pvt. Ltd. vs. State of Odisha and others (2025) SCC Online SC 2368** the Supreme Court held that the heart beat of fair play in tender matters would be non-arbitrariness and fairness in State’s action and that the Court’s interference would be limited to cases where the decision making process or the decision itself is arbitrary, irrational, *mala fide* or contrary to public interest. The Supreme Court further held that a public tender was not a private bargain. It was an instrument of



CWP-39639-2025 (O&M)

[13]

governance and in such matters the State discharges its solemn duty of a trustee of public wealth. In tender matters the State's purpose would not merely be procedural compliance but maximization of public value through a fair, transparent and competitive process. The obligation of the tendering authority was held to be two-fold namely to interpret its own terms with consistency and to ensure that such interpretation advances the object behind the tenders. It was still further held that in tender matters constitutional Courts would interfere only in case the tendered conditions had been interpreted irrationally which were affecting public interest. Paragraphs 9 and 10 of the judgment, which are relevant, read as follows: -

*9. We have considered rival submissions and have perused the record. The contours of judicial review in contractual matters are settled by a long line of authority. The 'heart beat of fair play' in tender matters is non-arbitrariness and fairness in State action. The court's interference is limited to cases where the decision making process is shown to be arbitrary, irrational, mala fide or contrary to public interest. (See: **Michigan Rubber (India) Ltd. v. State of Karnataka & Others, (2012) 8 SCC 216**). The same principle resonates in **Banshidhar Construction Pvt. Ltd. v. Bharat Coking Coal Ltd. & Others, (2024) 10 SCC 273** wherein this Court reiterated that decisions of the Government must be free from arbitrariness and guided by the constitutional mandate contained in Article 14 of the Constitution of India. The principle of restraint enunciated in **TATA Cellular v. Union of India, (1994) 6 SCC 651** that Courts do not interfere in contractual matters of the State, is accompanied by an equally strong duty to intervene in decision making process if the same is irrational, perverse or against public interest.*

10. A public tender is not a private bargain. It is instrument of governance, a mechanism through which the State discharges its solemn duty as trustee of public wealth. Its purpose is not merely procedural compliance, but maximisation of public value through a process i.e. fair, transparent and competitive. The obligation of the Tendering Authority is therefore twofold, namely, to interpret its own terms with consistency and to ensure that such interpretation advances, not defeats, the object of tender. The court must intervene in a case of demonstrable misconstruction of a tender condition or

**CWP-39639-2025 (O&M)****[14]**

irrationality which affects the public interest. When an interpretation of a tender condition narrows competition and excludes the highest bidder on a ground unsupported by law, the decision making process is vitiated. The interpretation of the terms of tender must, therefore, serve the object and purpose of the tender mainly to maximise the revenue to the State, when it deals with a natural resource.”

25. Similarly, in **Prakash Asphaltings and Toll Highways (India) Ltd. vs. Mandeep Enterprises and others (2025) SCC OnLine SC 1959** the Supreme Court held that in tender matters a mere possibility of more money in the public coffers would not by itself serve public interest and that maintenance of sanctity of tenders in governmental procurement processes was of a great importance. Even if for a moment it is assumed that there was a technical fault in the tender, which if rectified, could generate more revenue that by itself would not be a reason enough for the Court to interfere. In this regard, paragraphs 39 and 40 of the judgment are extracted below:-

“39. A three-Judge Bench of this Court in CIDCO v. Shishir Realty Private Limited, observed that when a contract is being evaluated, the mere possibility of more money in the public coffers does not in itself serve public interest. This Court held as follows:

61. When a contract is being evaluated, the mere possibility of more money in the public coffers, does not in itself serve public interest. A blanket claim by the State claiming loss of public money cannot be used to forego contractual obligations, especially when it is not based on any evidence or examination. The larger public interest of upholding contracts and the fairness of public authorities is also in play. The courts need to have a broader understanding of public interest, while reviewing such contracts.

40. The above proposition has been followed by another three-Judge Bench of this Court in the recent case of Subodh Kumar Singh Rathore v. Chief Executive Officer, when it examined the concept of public interest in administrative decisions relating to award of contracts. This Court held that even assuming for a moment that there was technical fault in the tender, which if

**CWP-39639-2025 (O&M)****[15]**

rectified had the possibility of generating more revenue, the same by no stretch could be said to be a cogent reason for concealing an already existing tender. This Court highlighted the importance of maintaining the sanctity of tenders in governmental procurement processes. Public tenders are the cornerstone of governmental procurement processes, being competitive and ensuring fairness and transparency in the allocation of public resources. Public tenders are designed to provide a level playing field for all potential bidders, fostering an environment where competition thrives. The integrity of this process ensures that public projects and resources are delivered efficiently and effectively, benefiting the society at large. Therefore, sanctity of public tenders and contract is a fundamental principle that underpins the stability and predictability of legal and commercial relationships. Infact this Court put in a word of caution that considerations of public interest should not be narrowly confined to financial aspect only.”

26. In **Surguja Bricks Industries Company vs. State of Chhattisgarh and others (2025) SCC OnLine SC 2916** the Supreme Court, while following the law laid down in **Afcons Infrastructure Ltd.’s** case (supra) held that the tender inviting authority would be the best judge to appreciate its requirements and interpret its documents as also that ordinarily a constitutional Court would defer to the understanding of the tender inviting authority. However, if the interpretation by the tender inviting authority is found to be *mala fide* or perverse then the constitutional Court should intervene. Likewise, if the interpretation of the tender inviting authority is irrational or absurd leading to arbitrary consequences, it would be duty of a constitutional Court to interfere with such a decision because to hold otherwise would render the very object of judicial review an empty formality. The relevant extract from the judgment of the Supreme Court in **Surguja Bricks Industries Company’s case (supra)** reads as under: -

“27. There is no dispute to the proposition that the tender inviting authority is the best judge to understand and appreciate



CWP-39639-2025 (O&M)

[16]

its requirements and interpret its documents. In Afcons Infrastructure Ltd. and in Bharat Coking Coal Ltd. as well as in subsequent decisions, this Court has upheld this principle observing that ordinarily constitutional courts should defer to the understanding of the tender inviting authority of the tender documents. However, this principle has its own limitations. If the interpretation of the tender inviting authority or its understanding of the tender conditions is vitiated by mala fides or perversity, there is no question of a constitutional court showing deference to such understanding. Likewise, if the interpretation of the tender inviting authority of a particular condition of tender, such as, an eligibility criteria as in the present case is irrational or absurd leading to arbitrary consequences, it would be the duty of a constitutional court to interdict such a decision making process. To hold otherwise would render the very object of judicial review otiose.”

27. In **Kimberley Club Pvt. Ltd. vs. Krishi Utpadan Mandi Parishad and others (2025) SCC OnLine SC 2323** the Supreme Court reiterated that in tender matters the Court exercising judicial review does not sit in appeal over the decision of a tendering authority regarding disqualification of a bid and only in cases where such decision is *dehors* the terms of the notice inviting tender or is perverse would the Court not only interfere but also set aside such a decision. In this regard, the following observations of the Supreme Court may be usefully extracted: -

11. In tender matters, the court exercising judicial review does not sit in appeal over the decision of a tendering authority regarding disqualification of bid. Only in cases where such decision is dehors the terms of the NIT or is patently arbitrary would the Court exercise powers of judicial review and set aside such decision.”

28. On a harmonious reading of the afore referred judgments of the Supreme Court, the law settled by the Supreme Court that can be culled out is that in tender matters Constitutional Courts would ordinarily exercise judicial restraint; the Court does not sit in appeal over administrative

**CWP-39639-2025 (O&M)****[17]**

decisions taken in tender matters because the Court does not possess the required expertise; the essential terms of the NIT must be given effect to but these terms and the administrative decisions taken in pursuance thereof as also the process followed to arrive at such decisions have to pass the test of reasonableness, must be free from arbitrariness, are not to be affected by bias or actuated by *mala fides* and should further public interest; the author of the tender documents is best suited to appreciate its requirements unless there is *mala fide* or perversity in such understanding; a mere disagreement with the decision making process or the decision of the administrative authority in tender matters will not be a reason enough for the constitutional Courts to interfere unless such process or decision does not cross the threshold of perversity or arbitrariness or is against public interest; when the State has issued the NIT or taken the administrative decision, while doing so, it discharges its solemn duty as a trustee of public wealth but at the same time in these matters a mere possibility of more money entering public coffers will not by itself be held to serve the larger public interest and that maintenance of sanctity of tenders in governmental procurement process would be of a greater importance.

29. Now let us apply the afore principles to the facts of the instant case.

30. In May 2025, through the first NIT, the Institute invited bids for setting up a gas based fire suppression system in all electrical panels at various locations of the Institute. As per clause 1(c) under Section III of the first NIT, along with its application, the bidder was required to upload an undertaking from the manufacturer whose equipment it intended to supply

**CWP-39639-2025 (O&M)****[18]**

and install. Such undertaking was for unconditional support to the tenderer by the equipment manufacturer towards not only the execution of the contract and its maintenance but also to provide spares for at least seven years from the date of installation.

31. Clause 1(c) under Section III contained in the first NIT is extracted below for ready reference:-

“c) The Agency should upload an undertaking from the OEM as defined in “List of approved make” regarding following: **(Scanned copy of all the following to be uploaded):**.”

- (i) Authorization certificate from OEM for this specific work.
- (ii) The OEM is unconditionally support the tenderer technically throughout the execution of contract as well as for Maintenance/Comprehensive Maintenance Contract for the useful life of the system.
- (iii) OEM provides all the spares required for healthy functioning of the equipment for at least seven years from the date of supply of equipment.”

32. The object behind submission of the undertaking/authorization certificate by the OEM, in terms of the afore quoted clause was important because none of the bidders were manufacturers of the equipment they intended to supply and install. Therefore, in the absence of the OEM’s authorization, whose equipment the bidder intended to supply and install, acceptance of the bidder’s bid would have been meaningless especially when the NIT clearly specified that not only the fire-fighting equipment was to be installed, it was also required to be maintained for 07 years after its installation.

33. In response to the first NIT, petitioner No.1 submitted its bid and along with its application the OEM’s authorization certificate dated 15.05.2025, was also uploaded.

34. By efflux of time, the first NIT lapsed.

**CWP-39639-2025 (O&M)*****[19]***

35. For the same work, as above, the Institute, through the second NIT, published in November 2025, invited fresh bids. The second NIT also contained the afore quoted clause 1(c) under Section III. Petitioner No.1 responded to the second NIT as well. Along with its application, petitioner No.1 appended a copy of the OEM's certificate dated 15.05.2025 which it had earlier uploaded in response to the first NIT. No fresh OEM certificate was obtained or uploaded.

36. Though the first and the second NIT pertained to the same work, their processes were independent of each other. These NITs were also about six months apart and during this period, the record reveals that the manufacturer, whose equipment petitioner No.1 intended to supply had withdrawn its authorization given to petitioner No.1 earlier because after petitioner No.1 had responded to the second NIT, the Institute has written to petitioner No.1's OEM to verify as to whether it backed petitioner No.1's bid submitted by it in response to the second NIT. Through letter dated 08.12.2025, petitioner No.1's OEM clearly responded in the negative.

37. Even before us it is the categoric stand of respondent No.5, who petitioner No.1 claims to be its OEM that it does not back petitioner No.1's bid made in response to the second NIT.

38. In the light of the above, in response to the second NIT, petitioner No.1 is clearly ineligible as it does not meet the mandatory conditions laid down in the second NIT. In fact, acceptance of petitioner No.1's bid would lead to a situation wherein it would be virtually impossible for petitioner No.1 to execute the work in question.



CWP-39639-2025 (O&M)

[20]

39. In the light of the fact that petitioner No.1's bid, submitted in response to the second NIT is not backed by its OEM and keeping in view, in the facts of the present case, the importance of submission of the OEM's authorization certificate, the rejection of petitioner No.1's bid by the Institute is found to be justified and not on account of any oversight on the Institute's part as sought to be projected by learned counsel for the petitioners. Equally so, such stand of the respondent-Institute was not hyper technical which could have been overlooked keeping in view only financial considerations.

40. We also find that the Institute adopted a fair and transparent approach by writing to the OEMs of all the bidders and considered them to be technically qualified only after their respective OEMs backed their bids.

41. In the light of the above discussion, the allegations of *mala fide* raised by the petitioners against respondent No.2 also do not entitle them to the grant of any relief especially when, out of the eligible bidders, respondent No.4 quoted the best price and that the decision to allot the tender to respondent No.4 is found by us to have been taken by a Committee of experts which included senior doctors of the Institute and outside experts as also that such process was applied to all bidders alike and thus was fair and just.

42. Dismissed.

43. No costs.

(DEEPAK SIBAL)
JUDGE

24.03.2026
gk

(LAPITA BANERJI)
JUDGE

Whether speaking/reasoned : Yes / No
Whether reportable : Yes / No