



2026:DHC:3729-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Judgment reserved on: 15.04.2026

Judgment pronounced on: 04.05.2026

Judgment uploaded on: 04.05.2026

+ W.P.(C) 4899/2026, CM APPL. 24022/2026, CM APPL. 24023/2026 and CM APPL. 24024/2026

INTERLINK FOODS PVT LTD

.....Petitioner

Through: Mr. Vivek Tankha and Mr. Jayant Mehta, Sr. Advs. along with Mr. Sumeer Sodhi, Mr. Varun Tankha, Mr. Harshit Joshi, Mr. Chaitanya Sharma, Ms. Anannya Jain, Ms. Sidhika Nagrath and Mr. Siddharth Dixit, Advs.

versus

**NATIONAL AGRICULTURAL COOPERATIVE
MARKETING FEDERATION OF INDIA LTD (NAFED) &
ORS.**

.....Respondents

Through: Mr. Sandeep Sethi and Mr. Anil Airi, Sr. Advs. along with Mr. Aaditya Vijaykumar, Ms. Akshita Katoch, Mr. Naman Garg, Mr. Anirudh Anand, Mr. Krishna Gambhir, Ms. Shreya Sethi, Mr. Vishal Tyagi, Ms. Bindiya Logawney Airi, Ms. Jasmin Sokhi and Mr. Harsh Gautam, Advs. with Mr. Amit Goel and Ms. Babita, AR for R-1.

Mr. Chetan Sharma, ASG with Mr. Anil Mittal, Mr. Shaurya Mittal, Advs. for R-2.

Ms. Radhika Bishwajit Dubey, CGSC along with Ms. Gurleen Kaur Waraich, Mr. Kritarth Upadhyay, Mr. Vivek Sharma

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and Mr. Amulya Dev Mishra,
Adv. for R-3.

Mr. Narendar Hooda, Sr. Adv.
along with Mr. Abhinav
Agrawal, Adv. for R-5.

Mr. Akshay Ringe, Adv. for R-
6.

Mr. Avneesh K. Upadhyay,
Adv. for R-7.

Mr. Lakshay Pareek, Adv. for
R-8.

CORAM:

HON'BLE MR. JUSTICE ANIL KSHETARPAL

HON'BLE MR. JUSTICE AMIT MAHAJAN

J U D G M E N T

ANIL KSHETARPAL, J.:

1. The present proceedings arise in what may appropriately be described as the second round of litigation concerning eligibility conditions incorporated in tenders floated by Respondent No.1, National Agricultural Cooperative Marketing Federation of India Ltd. ('NAFED'), for supply of recipe-based supplementary nutrition food items under the Integrated Child Development Services ('ICDS') Scheme in the State of Uttar Pradesh, a welfare programme operating under the statutory framework of the National Food Security Act, 2013.

2. In the earlier batch of Writ Petitions led by *Rasi Nutri Foods India Private Limited v. National Agricultural Cooperative Marketing Federation of India Ltd. & Ors.*, W.P.(C) No.2761/2026, a Coordinate Bench of this Court examined challenges to, *inter alia*, Clauses A1 and A12 of the same tender governing supply of Take Home Ration ('THR') food items. The Coordinate Bench upheld the

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validity of Clause A1 requiring ownership of a manufacturing unit within the State of Uttar Pradesh, holding that the stipulation was founded upon legitimate considerations of logistical feasibility, regulatory supervision, continuity of production and quality assurance in implementation of a welfare scheme of vital public importance.

3. While examining the tender framework, the Coordinate Bench also took into consideration prior directions issued by the Allahabad High Court in proceedings concerning implementation of the ICDS/THR scheme, wherein emphasis had been placed upon ensuring nutritional quality, continuity of supply and strengthening of local manufacturing infrastructure within the State. The ownership requirement was found to be aligned with such directions as well as with obligations flowing from the National Food Security Act, 2013.

4. The judgment of the Coordinate Bench declining interference stood carried to the Supreme Court by way of SLP (C) No.11159/2026. The Supreme Court declined to interfere, thereby lending finality to the judicial determination sustaining Clause A1. However, while doing so, the Supreme Court observed that if Clause A12, or any similar provision, were to be invoked in future tenders so as to exclude a bidder, it would remain open to such bidder to challenge the application of the clause in appropriate proceedings in accordance with law.

5. The earlier adjudication having thus settled the validity of Clause A1 while leaving open the manner of application of Clause A12 in future tenders, the scope of controversy in the present proceedings stands considerably narrowed.

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6. The present Writ Petition represents the next phase of litigation arising out of the above said tender issued by NAFED containing same eligibility conditions. Although the parties before this Court are different from those in the earlier batch, the challenge once again centres around Clauses A1 and A12 of the tender bearing NIT No.NAFED/HO/ICDS/RECIPE/2025-2026/01 dated 16.02.2026 [hereinafter referred to as the 'Tender Document']. The controversy therefore falls to be examined in the backdrop of the judicial findings already rendered in *Rasi Nutri Foods (supra)* and the observations of the Supreme Court.

7. Against the aforesaid backdrop, the Petitioner has approached this Court under Article 226 of the Constitution of India assailing the communication dated 02.04.2026 whereby its technical bid submitted pursuant to aforesaid Tender Document has been rejected. The Petitioner further challenges Clauses A1 and A12 to the extent they have formed the basis of its disqualification and seeks consequential reliefs including setting aside of the disqualification and, in the alternative, interference with the tender process itself.

8. The grievance of the Petitioner essentially is that its disqualification is arbitrary, discriminatory and violative of Article 14 of the Constitution of India, particularly on the ground that similarly placed bidders have allegedly been declared technically qualified despite non-fulfilment of mandatory tender conditions.

9. In the above factual and legal backdrop, the following issues arise for consideration:

i. Whether Clause A1 of the Tender Document survives

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challenge in light of the earlier judicial determination;

ii. Whether the Petitioner's disqualification under Clause A12 on account of alleged disputes relating to THR supplies is legally sustainable; and

iii. Whether the impugned disqualification or the tender process warrants interference within the limited scope of judicial review governing public procurement.

FACTUAL MATRIX:

10. In order to appreciate the controversy involved in the present case, the relevant facts, in brief, are required to be noticed.

11. The Respondent No.1, National Agricultural Cooperative Marketing Federation of India [hereinafter referred to as 'NAFED'], invited bids through an e-tender process for supply of recipe-based supplementary nutrition food items under the Integrated Child Development Services ('ICDS') Scheme in the State of Uttar Pradesh for the financial year 2026-27. The tender envisaged large-scale procurement and distribution of THR food items across various districts of the State, forming part of a welfare scheme aimed at nutritional support for beneficiaries under the ICDS programme.

12. The Petitioner Company, Interlink Foods Pvt Ltd., claiming to be an experienced entity engaged in manufacture and supply of nutritional food products and having participated in similar tenders earlier, submitted its bid pursuant to the said tender process. According to the Petitioner, it fulfilled all technical and financial eligibility requirements prescribed under the Tender Document and

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was, therefore, legitimately entitled to be considered for further stages of evaluation.

13. For the sake of clarity, it is set out by the Petitioner that Respondent Nos.4 to 8 are the other participating bidders whose technical bids have been accepted by NAFED, *albeit*, they have allegedly not fulfilled the mandatory eligibility criteria.

14. In furtherance of the aforesaid Notice Inviting Tender, the Petitioner submitted its technical bid *vide* email dated 10.03.2026. Thereafter, asserting the need for transparency and fairness in the procurement process, the Petitioner addressed a communication dated 16.03.2026 requesting disclosure of the status of the bidding process and seeking inspection of the technical bids. In the said backdrop, the Petitioner approached this Court by way of W.P.(C) 3771/2026 seeking directions to NAFED to disclose the outcome of the technical evaluation to all participating bidders. This Court, on 25.03.2026, while taking note of the governing principles of transparency, competition and fairness in public procurement, disposed of the said Writ Petition as premature, granting liberty to the Petitioner to challenge any adverse decision, if occasion so arose.

15. Subsequently, *vide* email dated 02.04.2026, NAFED communicated to the Petitioner that its technical bid stood disqualified, along with reasons in support thereof. The disqualification was principally premised on alleged non-compliance with Clause A1 of the Tender Document relating to ownership of a manufacturing unit within the State of Uttar Pradesh and Clause A12 concerning existence of disputes arising out of previous THR supply

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contracts. Upon receipt thereof, the Petitioner submitted a representation to NAFED assailing the disqualification as arbitrary and discriminatory, particularly alleging unequal treatment vis-à-vis Respondent Nos.4 to 8. However, according to the Petitioner, the said representation remained unconsidered.

16. In the aforesaid factual backdrop, the rival submissions of the parties fall for consideration.

CONTENTIONS OF THE PARTIES:

17. Heard learned Senior Counsel and learned Counsel representing the parties at length and perused the material placed on record.

18. Learned Senior Counsel representing the Petitioner advanced the following submissions:

i. NAFED conducted the tender process in an arbitrary, opaque and non-transparent manner. Although technical bids were submitted on 10.03.2026 and were scheduled to be opened on 11.03.2026, no communication regarding the progress or outcome of technical evaluation was furnished to the Petitioner.

ii. Reliance is placed upon Rule 173 of the General Financial Rules, 2017, which mandates transparency, fairness and elimination of arbitrariness in public procurement. Despite such a position, NAFED allegedly neither disclosed the evaluation process nor permitted inspection of the bids.

iii. The Petitioner's disqualification under Clause A1 of the Tender Document has been applied selectively. It is argued that similarly

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placed bidders, namely Respondent Nos.4 to 8, who allegedly operate manufacturing units on leasehold industrial plots, were declared technically qualified. Such differential treatment violates Article 14 of the Constitution of India. In this regard, the Petitioner alleges that:

- Respondent No.5 operates from a leasehold industrial unit allotted by UPSIDA;
- Respondent No.6's manufacturing unit is situated on a leasehold plot in GIDA, Gorakhpur, as reflected in statutory filings;
- Respondent Nos.4 to 7 allegedly do not fulfil the prescribed turnover requirement of Rs.75 crores under Clause A2 of the Tender Document, their turnover being derived from non-THR supplies. Reliance has been placed upon *Shipra Devi v. State of Uttar Pradesh*¹;
- Respondent No.6 does not meet the minimum production capacity requirement of 250 MT per day under Clause A6;
- Respondent Nos.5 and 6 allegedly did not possess operational manufacturing facilities on the date of issuance of the tender; and
- Collusion and cartelization amongst Respondent Nos.4 and 5, as being a single common entity, and amongst Respondent Nos.6 and 7 as being controlled by a single group, namely the Jhanwar group.



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iv. In justification of its compliance with Clause A1, learned Senior Counsel submit that the Petitioner's manufacturing facility is operated under a lease arrangement with its sister concern, both entities being controlled by the same individuals. According to the Petitioner, operational control, continuity of production and regulatory compliance stand fully ensured and, therefore, the object underlying Clause A1 stands satisfied notwithstanding absence of formal ownership.

v. With respect to Clause A12, learned Senior Counsel submit that the Petitioner has been rendered ineligible merely for having invoked arbitration, a lawful contractual remedy. It is contended that arbitral proceedings between the Petitioner and NAFED culminated in an award dated 28.01.2026 in favour of the Petitioner and, therefore, no "pending dispute" survives so as to attract disqualification. Reliance is placed upon the order passed by the Supreme Court in SLP (C) No.11159/2026, wherein, while declining to interfere with the judgment of the High Court, the Supreme Court observed that in the event Clause A12 or any clause of similar nature is sought to be invoked against a bidder in future tenders, it would remain open to such bidder to challenge the same in appropriate proceedings in accordance with law. On the strength of the said observation, it is contended that the application of Clause A12 requires strict scrutiny and cannot be mechanically invoked to exclude a bidder.

19. *Per contra*, learned Senior Counsel representing the Respondents have advanced submissions. While the Respondents substantially adopted a common stand in support of the validity and application of Clauses A1 and A12 of the Tender Document, separate

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submissions were addressed by the concerned Respondents in rebuttal of the allegations of individual ineligibility or deficiency attributed to them. The Respondents, collectively and individually, made the following submissions:

i. Constitutional Courts ought not to interfere with or rewrite eligibility conditions in tender matters, the tendering authority being the best judge of its requirements and policy considerations.

ii. Clause A1 of the Tender Document is stated to be reasonable and founded upon legitimate administrative concerns, as ownership of a manufacturing unit ensures operational certainty, regulatory continuity, effective supervision and avoidance of disputes arising from leased premises.

iii. Clause A12 has been incorporated to preserve the credibility and integrity of the procurement process by excluding bidders whose antecedents or pending disputes may adversely affect performance. Learned Senior Counsel, however, fairly conceded to the applicability of the judgment rendered by this Court in W.P.(C) No. 2761/2026 concerning the interpretation of Clause A12.

iv. With respect to allegations of collusion against Respondent Nos.4 to 7, it is submitted that such issues fall outside the scope of judicial review under Article 226 and lie within the jurisdiction of the Competition Commission of India ('CCI'). Mere association or familial relationship between bidders, it is argued, does not establish cartelisation/collusion.

v. Learned Counsel appearing for Respondent Nos.4 to 7 denied

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allegations regarding non-fulfilment of tender conditions and submitted that:

- Respondent Nos.5 and 6 operate manufacturing units on leasehold industrial plots allotted by statutory authorities, namely UPSIDA and GIDA. Being controlled and regulated by the State itself, the leasehold nature of the land does not render them ineligible to participate in the tender process;
- Respondent Nos.4 to 7 satisfy the turnover requirement under Clause A2, supported by Chartered Accountant-certified financial statements; and
- Respondent No.6 possesses the requisite production capacity, the relevant documents having been duly submitted and scrutinised during technical evaluation by NAFED.

20. No other submissions were urged by learned Senior Counsel for the parties.

ANALYSIS AND FINDINGS:

21. In the backdrop of the issues framed and the judicial history noticed hereinabove, this Court proceeds to examine whether the challenge to Clauses A1 and A12 of the Tender Document warrants interference within the limited parameters of judicial review under Article 226 of the Constitution of India.

22. For the sake of convenience, Clauses A1 and A12 of the Tender Document are reproduced hereinbelow:

“1. Bidder(s) should have owned manufacturing unit of recipe based

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supplementary nutrition food items in the State of Uttar Pradesh, complying with all the Statutory requirements. The bidder(s) should provide unit ownership title deed, factory license, electricity connection proof and FSSAI certificate as a proof of ownership of the unit. The unit ownership title deed should be dated before the floating date of this tender. (Factory License and FSSAI issuing date should be before the date of floating of tender).

12. The bidder(s) should neither be blacklisted or debarred, nor should there be any pending legal /criminal cases and or any other cases/disputes associated with THR supplies against them with any State/ Central/ UT/ State Level Agency on the date of submission of this tender by the bidder(s). Bidder(s) to provide an affidavit (on the stamp paper of Rs. 100) for the same.”

23. The challenge to Clause A1 must first be examined in the light of the earlier adjudication rendered by a Coordinate Bench of this Court in ***Rasi Nutri Foods*** (*supra*). The Coordinate Bench, upon an extensive examination of the nature of the ICDS/THR scheme, logistical imperatives governing supply of supplementary nutrition food and the policy considerations underlying the tender framework, upheld the requirement of ownership of a manufacturing unit within the State of Uttar Pradesh as a reasonable eligibility condition. The judgment having attained finality upon refusal of interference by the Supreme Court, the validity of Clause A1 stands conclusively settled. Judicial discipline therefore precludes this Court from reopening the validity of the clause, and the scope of examination is confined only to the manner of its application in the present tender process.

24. For completeness, and to appreciate the rationale underlying the earlier adjudication, relevant extracts from ***Rasi Nutri Foods*** (*supra*) are reproduced hereinafter:

“64. At the outset, we may state here that the Clause no. 1 contemplates that the bidder should own manufacturing unit of RBSN food items within the State of Uttar Pradesh. The reasoning given by

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the respondents for this can be found in paragraph no.17 of the reply, as reproduced hereunder-

"17. As far as Clause A (1) of the tender is concerned, the objection is ill founded because the requirement of a manufacturing unit in the State of U.P was in consonance with the order of the Allahabad High Court dated 01.08.2025, which urged the State Government to have adequate infrastructure within the State of UP. Petitioner's challenge to Clause A (1) Le. the requirement of a pre-existing local manufacturing unit in U.P. is absurd and ignores the reality of the scheme. Under the Scope of Work, the successful bidder would be provided raw materials like Wheat and Rice from U.P. It is strictly stipulated that the raw material of wheat and rice shall mandatorily be provided at a highly subsidized issue rate on ex-godown basis, which is the stock allocated to the State Govt by the Government of India. It is logistically impossible, economically disastrous and highly prone to pilferage to permit an out-of-state bidder to transport thousands of metric tons of Central Government allocated, subsidized UP quota wheat and rice to an alternate state, process it and then transport the highly perishable finished Take-Home Ration for daily doorstep delivery to U.P. Anganwadis. Time is essence of this contract and local manufacturing is strict physical and operational imperative, not an arbitrary geographical barrier."

(emphasis supplied)

65. The above being the reason, the incorporation of the said clause in the tender notification cannot be contested.

69. The petitioners contention that physical inspection of the manufacturing unit(s) is not necessary for supervision/quality check and the same can be achieved through electronic monitoring by referring to Section B(8) of the General Terms and Conditions fails to persuade us to exercise the powers of judicial review so as to interfere with the impugned tender conditions. It cannot be disputed that physical supervision for achieving quality may be desirable and would be feasible for respondent and the State of Uttar Pradesh if the unit(s) are located in the State of Uttar Pradesh as opposed to another State. We therefore find the reasons given by the respondent for prescribing this condition to be reasonable. Another submission of Mr. Sethi is that, if the manufacturing unit is not owned by the successful bidder, there may arise multiple issues including dispute with landlords, which may lead to the bidder relocating to the alternative manufacturing unit thereby requiring change in the statutory licenses in quality and quantity parameters, delay in restarting the production, issues relating to limitation of liability and issue in respect of supervision and inspection, which would ultimately affect the timely



delivery of RBSN food items. We find that the reasons advanced by Mr. Sethi that the stipulation under Clause A (1) of the impugned tender that the bidder should own the manufacturing unit of RBSN food items within the State of Uttar Pradesh, is not arbitrary, keeping in view the timelines of delivery and the essential nature of the service so as to require interference.

70. The submission of Mr. Sethi is that one of the reasons for insisting the bidder to own manufacturing unit within the State of Uttar Pradesh, also flows from the National Food Security Act, 2013. The obligation is on the part of the State Government to provide supplementary nutrition foods to all the stake holders regularly without any interruption. In that sense, the State Government was of the view that the bidder, who ultimately would be awarded the contract for supply of RBSN food items must have a permanency and shall commence supply within a period of 15 days of the award of the contract and no later than 01.04.2026. This stand of the respondent as canvassed by Mr. Sethi is also appealing.

71. In any case, it is the prerogative of the State to stipulate such conditions as they deem appropriate. More so, in a tender of this nature, which has been floated to comply with the provisions of the National Food Security Act, 2013 and also in view of the directions of the Allahabad High Court in the case of Shipra Devi (supra), Mr. Sethi is justified in contending that prescription of the tender conditions is the prerogative of the employer and the Court cannot substitute the view of the employer with its own view."

(Emphasis supplied.)

25. The above extracts make it evident that the ownership requirement was upheld not as a mere technical stipulation but as a condition intrinsically linked to continuity of supply, regulatory supervision, avoidance of operational disruption and fulfilment of statutory obligations under the National Food Security Act, 2013. The earlier judgment thus recognises Clause A1 as a policy choice grounded in public interest considerations rather than an arbitrary geographical restriction.

26. Once Clause A1 has been judicially upheld and its validity affirmed, the Petitioner cannot maintain a fresh constitutional challenge to the clause itself. The enquiry before this Court is



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therefore limited to determining whether the tendering authority has applied the condition in a discriminatory or arbitrary manner so as to attract interference under Article 226 of the Constitution of India

27. The Petitioner, without prejudice to its primary challenge to Clause A1, has sought to contend that Respondent Nos.5 and 6 have been declared technically qualified despite operating manufacturing units on leasehold land and, therefore, parity ought to be extended to the Petitioner. The submission proceeds on the premise that the leasehold status of the Petitioner's unit stands on the same footing as that of the said Respondents. This Court is unable to accept the said contention.

28. A closer examination of the material placed on record reveals a material distinction in the nature and character of the leasehold rights relied upon by the parties. Respondent Nos.5 and 6 operate manufacturing units on industrial plots allotted by statutory development authorities, namely UPSIDA and GIDA, pursuant to State industrial policies. Such allotments are not mere private contractual leases but constitute regulated statutory tenures governed by public law obligations, long-term allotment conditions, and continuing supervisory control of the State authorities. The industrial allottee acquires a stable and policy-backed right of occupation intended to promote permanent industrial infrastructure within the State.

29. In contrast, the Petitioner's manufacturing facility is admittedly operated under a private lease arrangement with a sister concern. A privately negotiated lease, however *bona fide*, remains inherently contingent upon *inter se* contractual arrangements between private

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parties and is susceptible to termination, non-renewal, restructuring of corporate relationships, or other contingencies beyond the control of the procuring authority. The distinction, therefore, is not merely formal but goes to the heart of the policy rationale underlying Clause A1, namely, ensuring permanence, operational certainty and uninterrupted supply under a welfare scheme of continuing public importance.

30. Once this distinction is appreciated, the plea of discrimination loses force. Article 14 of the Constitution of India embodies equality before law but does not mandate equal treatment between unequals. The Petitioner cannot invoke parity by equating a privately leased manufacturing arrangement with a State-allotted industrial unit operating within a regulated statutory framework. Significantly, the lease deed relied upon by the Petitioner itself indicates a tenure not co-extensive with the contemplated contractual period under the tender, thereby reinforcing the apprehension of disruption which Clause A1 seeks to obviate. In procurement relating to nutritional supply for children, pregnant women and lactating mothers, the tendering authority is entitled to insist upon a higher degree of infrastructural stability. Consequently, the alleged differential treatment between the Petitioner and Respondent Nos.5 and 6 cannot be characterised as arbitrary or violative of Article 14.

31. Insofar as Clause A12 of the Tender Document is concerned, which stipulates that a bidder should neither be blacklisted nor have pending legal, criminal or other disputes relating to THR supplies with any governmental agency on the date of submission of the tender, it is noted that although the issue was adverted to in the earlier judgment,

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the validity and scope of the said clause were not finally adjudicated therein.

32. The Petitioner submits that Clause A12, as applied in the present case, penalises a bidder for invoking lawful contractual remedies. The Respondent No.1, on the other hand, submits that the clause seeks to exclude agencies whose past conduct raises concerns regarding credibility and performance in public supply contracts.

33. Having considered the rival submissions, this Court finds that the arbitration proceedings relied upon for disqualifying the Petitioner were initiated by the Petitioner itself for recovery of contractual dues. The proceedings neither recorded misconduct nor established any default attributable to the Petitioner. Rather, an arbitral award dated 28.01.2026 has been passed in favour of the Petitioner.

34. Invocation of arbitration for enforcement of statutory or contractual rights cannot, by itself, be construed as a disqualifying “dispute” within the meaning of Clause A12. Such an interpretation would effectively penalise a bidder for resorting to remedies recognised under law.

35. Reference has also been made to the order passed by the Supreme Court in SLP (C) No.11197/2026 titled ***Kota Dall Mill v. National Agricultural Cooperative Marketing Federation of India Ltd.*** The Supreme Court granted limited relief noticing that an arbitral award in favour of the bidder was subsisting and had not been set aside in proceedings under Section 34 of the Arbitration and Conciliation Act, 1996. In the peculiar facts of that case, it was observed that Clause A12 shall not obstruct the bidder’s participation

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in future tenders. The said order, however, cannot be read as striking down Clause A12 or laying down an inflexible rule of universal application; rather, it indicates that existence of *bona fide* contractual disputes culminating in an award in favour of a bidder cannot, by itself, automatically constitute a disqualification.

36. Accordingly, the interpretation suggested by the Petitioner merits acceptance. However, the said finding, in the facts of the present case, does not render the entire tender process invalid, nor does it automatically entitle the Petitioner to award of the contract.

37. Even assuming that the Petitioner's disqualification under Clause A12 warranted reconsideration in light of the arbitral award operating in its favour, the Petitioner admittedly does not satisfy the independent and mandatory eligibility requirement contained in Clause A1 of the Tender Document. Non-fulfilment of an essential eligibility condition constitutes a complete bar to technical qualification. Consequently, reconsideration of the Petitioner's case under Clause A12 would not alter the ultimate outcome of the technical evaluation. Judicial review in such circumstances would be rendered academic and does not justify interference with the ongoing tender process.

38. The allegations of collusion are founded primarily upon assertions relating to common ownership, business association and familial relationship between certain bidders. Such allegations involve disputed questions of fact requiring economic and market analysis falling within the specialised statutory domain of the CCI. In exercise of jurisdiction under Article 226 of the Constitution of India, this

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cartelisation or anti-competitive conduct, particularly in the absence of clear and incontrovertible material demonstrating mala fides in the tender process.

39. Moreover, the work associated to the above said tender procurement has already been awarded to the Respondent Nos. 4 to 7 and in regards the allegations made by the Petitioner concerned, it is observed thereby that *albeit* Respondent Nos. 4 and 5 may be intrinsically connected, however, nothing on record projects any causal connection of the Respondent Nos. 4 and 5 with Respondent Nos. 6 and 7. The above said observation, however, would not cause any prejudice to the Petitioner's right to assert such allegations before the appropriate forum.

40. In view of the aforesaid discussion, this Court declines to undertake any adjudication on the merits of the allegations of collusion, the same being matters falling within the statutory jurisdiction of the CCI. The allegations raised, in any event, do not furnish a ground for interference with the tender process in exercise of powers under Article 226 of the Constitution of India. Liberty is reserved to the Petitioner to pursue remedies before the competent authority, if so advised.

CONCLUSION:

41. The Petitioner essentially invites this Court either to declare it technically qualified or to invalidate the tender process in its entirety. Such relief would travel beyond the permissible scope of judicial review in contractual and tender matters under Article 226 of the Constitution of India.

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42. In the ultimate analysis, the Petitioner having failed to satisfy an essential eligibility condition under Clause A1 of the Tender Document, no enforceable right accrues so as to warrant interference under Article 226 of the Constitution of India, notwithstanding the observations made herein regarding interpretation of Clause A12.

43. Before parting, it is clarified that this Court has examined the decision-making process and the legality of the tender conditions strictly within the parameters of judicial review under Article 226 of the Constitution of India. Nothing observed herein shall be construed as an expression on comparative merits of bidders or on the financial evaluation process, which shall proceed independently in accordance with the Tender Document.

44. Accordingly, the present Writ Petition is dismissed. Pending applications also stand disposed of.

ANIL KSHETARPAL, J.

AMIT MAHAJAN, J.

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