

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

Present:

The Hon'ble Justice Krishna Rao

W.P.A. No. 20067 of 2026

Sanjay Kumar Agarwal

Vs.

Steel Authority of India Limited (SAIL) & Ors.

Mr. Sakya Sen, Sr. Adv.

Mr. Ankan Rai

Mr. Sarosij Dasgupta

Mr. Ratnesh Rai

Ms. Vipra Gang

Ms. Sakshi Kejriwal

Ms. Nabanita Manna

....For the petitioner.

Mr. Kishore Dutta, Sr. Adv.

Mr. Lakshmi Shaw

Ms. Sumita Shaw

....For the respondents.

Hearing Concluded On : 17.09.2026

Judgment Delivered On : 23.09.2026

Judgment Uploaded On : 23.09.2026

Krishna Rao, J.:

1. The petitioner has filed the present writ petition challenging the decision of the Steel Authority of India Limited (hereinafter referred to as "SAIL") wherein the petitioner has been declared technically disqualified from Tender No. GEM/2026/B/7121849.
2. The SAIL has issued a Tender Notice for the job namely: SMS Slag handling and slag pits management, evacuation, cleaning, loading, transportation and unloading of skull, tundish skull, fluedust, lime fines, musk, debris and slag arising in entire SMS complex, processing, recovery and transportation of processed scrap, mill scale, slag to designated area.
3. Eligibility Criteria for participating in the tender process is as follows:

"3. Eligibility Criteria: Experience of having successfully completed or substantially completed similar work by the bidder during the last Seven (07) years in minimum 2 MTPA capacity (Crude Steel) Steel Plant, ending last day of month previous to the one in which tender is issued should be either of the following:

a) Three similar completed work order/ MOU/ Agreement which must include all the activities as mentioned below in any combination, each costing not less than the amount equal to INR 15.19 Crores (without GST)

OR

b) Two similar completed works order / MOU/ Agreement which must include all the activities as mentioned below in any combination, each costing not less the amount equal to INR 20.25 Crores (without GST)

OR

c) One similar completed work order/ MOU/ Agreement which must include all the activities as mentioned below in any combination costing not less than the amount equal to INR 30.38 Crores (without GST).

Similar work above means following activities:

i) Any work order/ MOU/ Agreement that includes "Experience of processing and handling (excavation/ extraction/ digging and its loading/ transportation/ unloading from the running/ operating slag pits of SMS or sand pits of BF) of Steel/ Iron/ metal slag in any Steel Plant, where processing means separation of metal & slag and its crushing/ screening/ Sizing/ extraction/ excavation.

And

ii) Owning/ Hiring/ Leasing of Earth Moving Equipment vehicles and material handling equipment/ Supply/ and transportation of raw material/ scraps/ slurry/ muck/ debris etc by road and used in Steel Plant."

- 4.** The petitioner has participated in the said tender process and submitted documents to satisfy Clause 3(b) of the eligibility criteria.

With respect to the handling process, the petitioner has relied upon the following three work orders:

- (i). VJNR/111500/ SER/R/4500126686 dated 2nd May, 2021,*
- (ii). VJNR/111500/SER/R/4500141281 dated 5th May, 2022*
- (iii). VJNR/111500/SER/R/4500163802 dated 5th June, 2023.*

By relying upon the said three work orders, it is the case of the petitioner that the cumulative amount of three work orders is Rs. 45.781 Crores.

- 5.** For processing operation, the petitioner has submitted the following four work orders:

- (i) *VJNR/111500/SER/R/4500129091 dated 16th June, 2021*
- (ii) *VJNR/111500/SER/R/4500137261 dated 11th February, 2022*
- (iii) *VJNR/111500/SER/R/4500142324 dated 11th May, 2022*
- (iv) *VJNR/111500/SER/R/4500190284 dated 26th July, 2024*

The petitioner submits that cumulative value of the four work orders amounting to Rs. 29.858 Crores which is greater than the eligibility criteria.

- 6.** Mr. Sakya Sen, Learned Senior Advocate, representing the petitioner submits that the respondent authorities have neither raised any objection nor sought any clarification regarding the first sets of work orders disclosed and relied by the petitioner for the purpose of demonstrating experience in handling, which clearly implies that the authorities did not construe the eligibility criteria to be such that experience of processing and handling had to be shown as a part of single composite work order and were of the view that the petitioner is having requisite experience in handling job.

7. Mr. Sen submits that upon perusal of the rejection letter dated 15th July, 2026, it is evident that the petitioner has been disqualified at the techno-commercial stage on the ground that the subject of the work order No. VNJR/111500/SER/R/4500190284 dated 26th July, 2024, is different from the subject of the other three work orders relied by the petitioner for demonstrating processing experience and the said work orders disclosed for processing experience did not contain the common number “111500”. He submits that the same is irrelevant since it is an admitted position that all four work orders referred to in the certificates pertained to processing of metal/ slag and were collectively disclosed for the purpose of demonstrating experience in processing as their cumulatively value is more than 20.25 Crores which is the only requirement of Clause 3(b) of the tender.
8. Mr. Sen submits that Clause 3(b) of the eligibility criteria allows the bidder to disclose complete works order/ MOU/ Agreement which must include activities as mentioned below in any combination, each costing not less than amount equal to INR 20.25 Crores (without GST). He submits that the ground for rejection that subject of one work order is different from the other three work orders renders the expression “*activities as mentioned below in any combination*” in the eligibility criteria, otiose and redundant.
9. Mr. Sen submits that in a similar tender having identical eligibility criteria floated by the respondent authorities for handling, processing and management of raw materials/ scrap/ slag/ recover at its IISCO

Steel Plant, the petitioner was qualified at the techno-commercial stage and was allowed to participate at the financial bid of the said tender on the basis of the same affidavit, certificates and work orders disclosed in the present writ petition. He submits that both tenders i.e. the present tender and the tender of IISCO Steel Plant are similar in nature having identical eligibility criteria and thus the respondent authorities ought to be stopped from taking such contrary stands and views.

10. Mr. Sen submits that the number 111500 is missing in all four work orders relied by the petitioner, for the purpose of demonstrating processing experience, is concerned, the number is common interlink age number with regard to all three work orders relied by the petitioner for the purpose of demonstrating handling experience and not processing experience. Therefore, this common interlink age number is not appearing in the work orders relied by the petitioner for the purpose of demonstrating processing experience. He submits that the common interlink number “111500” is appearing in respect of all three work orders relied by the petitioner for the purpose of demonstrating handling experience.

11. Mr. Kishore Datta, Learned Senior Advocate, representing the respondent authorities submits that the petitioner has submitted two performance certificates to show satisfactory completion of the two work orders. One performance certificate shows that for the first work order, there were two other work orders said to be part of the first work order and the second work order, there were three other work orders

said to be part of the second work order. The petitioner submitted first few pages of each of the three work orders of the 1st set and first few pages of four work orders of the 2nd set.

12. The Durgapur Steel Plant (hereinafter referred to as “DSP”) sought for clarification from the petitioner on 20th April, 2026 in regard to the work orders furnished by the petitioner with the bid documents. The petitioner by a letter dated 22nd April, 2026, requested the DSP to increase the file upload size for submitting complete copies of the work orders. The DSP advised the petitioner to upload documents in two lots for which file size would be allowed by the GeM. The petitioner submitted complete copies of the work orders in two parts and on receipt of the same, the DSP requested the petitioner to arrange confirmation of work orders, because no response was received from the two email ids of JSW Steel Limited. On 11th May, 2026, the petitioner informed that JSW Steel Limited is not inclined to give direct response or confirmation, but the petitioner has provided other two email ids.

13. Again on 6th June, 2026, the DSP sought clarification for the 2nd set of four work orders submitted by the petitioner dated 29th April, 2026. The petitioner did not respond to such query of SAIL for which GeM portal showed “Expired”. Consequently on 29th June, 2026, DSP disqualified the petitioner’s bid on the technical evaluation. Mr. Datta submits that the petitioner has not challenged the rejection order dated 29th June, 2026.

- 14.** On 30th June, 2026, the petitioner has made representation claiming that the second set of four work orders constitute a single contract for evaluating the prescribed eligibility criteria. The petitioner failed to answer to the specific queries of the DSP dated 6th June, 2026, to show four work orders of the 2nd set were linked and could be considered as covered under a single order reference to fulfil the eligibility criteria.
- 15.** Mr. Datta submits that the definition of “similar works” the bidders who participate under Clause 3(b) of the eligibility criteria must have completed two similar completed work orders, which must include all activities in any combination, each costing not less than INR 20.25 Crores (without GST). He submits that all the activities means work *inter alia* processing and handling. He submits that 1st set of three work orders which has been accepted by the DSP is only for handling experience and does not fulfill processing experience which is also necessary for similar work experience.
- 16.** Mr. Datta submits that four work orders for 2nd set it was found that none of the work order numbers contained any common number “111500”, the job name of the fourth work order is completely different from the first three work orders, none of the four work orders were found to have any inter-linkages and cross-references and different common numbers “111670” was found in the work order numbers in two work orders i.e. 2nd and 3rd work orders.

- 17.** Mr. Datta submits that the petitioner is guilty of suppression of material facts. He submits that the petitioner has not disclosed that the respondent sought for clarification through GeM portal on 6th June, 2026 but the petitioner has not submitted any reply to the said clarification, pursuant to which the GeM portal sent an information to the petitioner showing the status “expired”. He further submits that the petitioner has not disclosed disqualification letter dated 29th June, 2026. He submits that the impugned communication dated 15th July, 2026, is not rejection order or disqualification order, it is only disposal of the petitioner’s representation dated 30th June, 2026. He submits that the petitioner has not challenged the parent order of disqualification dated 29th June, 2026.
- 18.** Mr. Datta submits that slag generated in pyro-metallurgical operations in Steel Plants is a solid industrial waste covered under Note at the end of Schedule 1 of Hazardous and other Wastes (Management and Transboundary Movement) Rules, 2016 for which “Guidelines on Management of Pyro-metallurgical Slags-Iron-and-Steel-Slags -Ver-1.0-2023” have been notified by the Central Pollution Control Board in December, 2023. Category 3(a) in the schedule under the Specific Relief Act, itemizes solid waste management as infrastructure Sub Sector.
- 19.** Mr. Datta submits that Section 20(A) read with Section 41(ha) of the Specific Relief Act *inter alia* provides that no injunction can be granted if it would impede or delay the progress or completion of any infrastructure project or interfere with the continued provision of

relevant facility relating thereto or services being the subject matter of such project. In support of his submissions, he has relied upon the judgment in the case of **Project Director, NH No. 45 & 220, NHAI vs. M. Hakeem** reported in **(2021) 9 SCC 1** and submits that injunctions against highway projects have now become impossible to obtain in view of Section 20A of the Specific Relief Act.

20. Clause 3(b) of the eligibility criteria provides that :

“3(b): Two similar completed works order/ MOU/ Agreement which must include all the activities as mentioned below in any combination, each costing not less than the amount equal to INR 20.25 Crores (without GST).”

21. In the eligibility criteria Clause 3(i), Similar Work is defined which reads as follows:

“i) Any work order/ MOU/ Agreement that includes “Experience of processing and handling (excavation/ extraction/digging and its loading/ transportation / uploading from the running/ operating slag pits of SMS or sand pits of BF) of Steel / Iron / metal slag in any steel plant, where processing means separation of metal & slag and its crushing/ screening/ Sizing/ extraction/ excavation”.

22. The issue in the present writ petition whether the petitioner fulfils the eligibility criteria to qualify techno-commercial bid. To prove eligibility, the petitioner has submitted the documents in terms of Clause 3(b) of the eligibility criteria. The petitioner has submitted two sets of documents to satisfy the criteria with respect to the handling and processing. In the first set, the petitioner has submitted three work

orders to satisfy handling experience. All three work orders having common No. 111500 and aggregate work order value without GST of all three work orders is more than 20.25 Crores. The respondent authorities have accepted the three work orders of the 1st Set in technical evaluation as forming one composite work orders for handling experience.

23. As regard to the 2nd set of four work orders submitted by the petitioner to prove his eligibility for processing experience, the respondent authorities have raised objection to the effect that:

“(i). None of the four work orders contained any common number 111500.

(ii). The job name of the fourth work order was found to be completely different from the 1st three work orders in the 2nd Set.

(iii). None of the four work orders were found to have any inter-linkages and cross-references, i.e. mention of any composite contract period as was there in the three work orders of the 1st Set.

(iv). A different common no. “111670” was found in the work order numbers in two work orders i.e. 2nd and 3rd work orders. “

24. The petitioner has submitted his certificate issued by the JSW Steel Limited dated 31st March, 2025 wherein it is certified that the petitioner company is handling the work of “Un-processed Slag Shifting, Processing, Metal Recovery, Shifting of Non-metallic Slag for SMS-3 EAF/ ZPF works” by using their owned Vehicles Excavators, Loaders, Dozers etc. with Skilled manpower. The value of the work successfully

executed from 24th June, 2021 to 31st March, 2025, against various work orders are Rs. 29.57,00,420/-. The year wise total quantity and abstract is enclosed with the said certificate as Annexure-1. Annexure - 1 contains details of work orders which reads as follows:

Annexure - 1

Financial Year	Particulars	Work-Order No. & Date	Work order Value (in Cr.)	Work executed value (in Cr.)	Qty Executed (in MT) Metallic Non-Metallic	
2021-22	JSW original work-order given for t3 years	VNJR/111500/SER/R/4500129091 Dt. 16-06-2021 (EAF Work)	11.043	7.033	17,379.400	4,97,421.650
2022-23				3.596	28,708.330	1,79,103.250
2022-23		VNJR/111500/SER/R/4500137261 Dt. 11-02-2022 (ZPF Work)	0.535	0.535	2,295.680	26,642.260
2022-23		VNJR/111500/SER/R/4500142324 Dt. 11-05-2022 (ZPF Work)	6.067	5.830	12,290.700	3,14,441.810
2023-24				0.032	400.130	178.160
		VNJR/111500/SER/R/4500190284	12.436	0.514	655.480	29,300.850
2024-25	Upto Mar 2025	Dt. 26-07-2024 (EPF & ZPF Work)		12.030	59109.350	510695.750
		Total:	30.081	29.570	1,20,839.07	15,57,783.73

- 25.** The petitioner has disclosed Service Orders issued by the JSW Steel Limited corresponding to the particulars of the work orders mentioned in the Certificate issued by the JSW Steel Limited dated 31st March, 2025, along with Annexure-1. The Service Orders which the petitioner has relied upon correspondence to the work orders mentioned in Annexure-1 are not matching with each other. In none of the service

orders, the work order No. “111500” is reflected. In two of the service orders, the work order is mentioned as “111670” instead on “111500”.

It is clear from the record that the works orders which the petitioner has relied upon for processing experience is not similar to the work orders of handling experience.

- 26.** Similar work is defined in Clause 3(i) of the Eligibility Criteria. As per the said clause, the contractor has to satisfy that any work order/ MOU/ Agreement that includes “Experience of Processing and handling” that means the work order which the contractor relied upon for his experience, the said work order/orders should include experience of handling and Processing.
- 27.** In the present case, the petitioner has relied upon two sets of documents i.e. first set of documents are with regard to handling experience and another set is of processing experience. There is no dispute with regard to the experience in handling. The second set of the documents i.e. for work orders which the petitioner relied upon for processing experience is not of the similar work orders of the handling process. The four work orders for processing experience is totally different from the work orders of handling experience. The petitioner has relied upon different work orders for handling and different work orders for processing which are not the eligibility criteria as mentioned in Clause 3(b) and 3(i).

- 28.** The petitioner has raised another issue that IISCO Steel Plant has issued similar tender of identical eligibility criteria wherein the petitioner had participated and was qualified at the techno-commercial stage with the same affidavit, certificate and the work orders and the petitioner was allowed to participate in the financial stage. The petitioner has disclosed eligibility criteria of the Bid Initiation of IISCO in the supplementary written notes of argument but this Court finds that in the said Bid Invitation documents IISCO has not provided the meaning of similar work.
- 29.** The respondent authorities also raised the issue that the petitioner has suppressed the fact that the petitioner has not submitted to the clarification sent to the petitioner through GeM portal on 6th June, 2026 and also not disclosed the disqualification order dated 29th June, 2026. This Court finds that though the petitioner has not disclosed with regard to the communication of disqualification but in para 15 of the writ petition, the petitioner has stated that on 29th June, 2026, the respondents have illegally disqualified the petitioner. This Court also finds that the petitioner has not only challenged the communication dated 15th July, 2026 but the petitioner has prayed for recalling of the decision of the respondents wherein the petitioner has been declared technically disqualified from the tender in question.
- 30.** Considering the above, this Court did not find any illegality of the decision taken by the respondent authorities by declaring the petitioner technically disqualified in the Tender No. GeM/2026/B/7121849.

31. WPA No. 20067 of 2026 is dismissed.

Parties shall be entitled to act on the basis of a server copy of the Judgment placed on the official website of the Court.

Urgent Xerox certified photocopies of this judgment, if applied for, be given to the parties upon compliance of the requisite formalities.

(Krishna Rao, J.)