

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

Present:

The Hon'ble Justice Krishna Rao

W.P.A. No. 12223 of 2026

Vindhya Industries Private Limited & Anr.

Vs.

Union of India & Ors.

Mr. Pranit Bag
Mr. Surojit Dasgupta
Mr. Ashis Kumar Mukherjee
Mr. Saurabh Prasad
Ms. Subhasree Hazra

....For the petitioners.

Mr. Pinaki Ranjan Chakraborti
Mr. Subrata Santra

....For the U.O.I.

Hearing Concluded On : 03.07.2026

Judgment Delivered On : 10.07.2026

Judgment Uploaded On : 10.07.2026

Krishna Rao, J.:

1. The petitioners have filed the present writ petition challenging the rejection of techno commercial bid of the petitioners dated 20th May, 2026 on the ground that the petitioners have not submitted any valid document against local content declaration on a Non-Judicial Stamp Paper of Rs. 100/-.
2. The respondent no. 3, on behalf of the respondent no. 1, floated a Notice Inviting Tender bearing No. N_02_HQ-2025-26-RT-1 for Provision of 4 x 48 fibre OFC for communication backbone in section Kamakhya (KYQ) – Guwahati (GHY) – Lumding (LMG) (191 RKM) of Lumding Division under HUN6 sections covered within sanctioned KAVACH territory.
3. The petitioners have participated in the said tender but the Techno-Commercial bid was rejected on the ground that the petitioners have not submitted any valid document against the local content declaration on a Rs. 100/- stamp paper.
4. Mr. Pranit Bag, Learned Advocate, representing the petitioners submits that in the tender document in Clause 5(3), the percentage of local content in the material being offered be entered as “0” for fully imported items, and 100 for fully indigenous items. He submits that in the said description, uploading the documents is allowed but it is optional. Similarly, under the general instructions of the tender document, the mandatory documents are:

- (i) Technical Credential for Completed similar nature of works as per Chapter -I, Clause -10 (Annexure A/B or both as per Clause no. 10.1),*
- (ii) Details of FINANCIAL CREDENTIAL: As per Chapter – I, second sheet para 10.2.,*
- (iii) Certificate of Annexure-V on ireps module,*
- (iv) Bid Security as per Annexure-VI A if submitted in the Form of Bank Guarantee*
- (v) Bid capacity as per Clause No. 10.3 of Chapter-I,*
- (vi) Compliance of Technical specification of Tender as per Annexure R of Section-II and*
- (vii) Certificate of Local content as per Form-1, under Clause 51 of Chapter-III.*

5. Mr. Bag submits that as per the tender conditions, uploading of the said documents, are not allowed. The petitioners instead of submitting the certificate of local content as per Form–1 under Clause 51 of the Chapter-III on Rs. 100/- stamp paper, have submitted the same in a plain white paper. He submits that when the respondents have rejected the techno commercial bid of the petitioners only on the ground that the petitioners have not submitted the declaration of local content on Rs. 100/- stamp paper, the petitioners have immediately made a representation stating that the petitioners are ready and willing to submit the said declaration on Rs.100/- stamp paper though the petitioners have submitted the declaration on plain white paper.

6. Mr. Bag submits that only on the ground that the petitioners have not submitted the declaration on Rs.100/- stamp paper, the respondents

have rejected the techno commercial bid of the petitioners, though the petitioners have submitted the local content declaration form on a plain white paper and also informed the authorities that the petitioners are ready and willing to submit the said undertaking on Rs. 100/- stamp paper but the authorities have not considered the request of the petitioners.

7. Mr. Bag submits that as in Clause 5(3) and in General Instructions of the commercial documents, the authorities have stated that the uploading of the documents regarding the percentage of local content is optional and not allowed but subsequently in other tender documents, the respondent authorities have rectified the same by incorporating the word “allowed” with mandatory documents which itself proves that in the present tender, it was not mandatory and declaration on Rs. 100/- stamp paper can be submitting subsequently.
8. Mr. Bag has relied upon the judgment in the case of ***ABC Beverages Pvt. Ltd. vs. Indian Railway Catering and Tourism Corporation (IRCTC) Ltd. & Anr.*** reported in ***2017 SCC OnLine Del 9426*** and submits that the Hon’ble Division Bench of the Delhi High Court held that minor procedural defects which are curable should not be allowed to defeat substantive rights or to cause injustice.
9. *Per contra*, Mr. Pinaki Ranjan Chakraborti, Learned Advocate representing the respondent authorities submits that in the tender document, it is categorically mentioned that format for self-certification

regarding local content in a locally supplied for telecom product, services or works with all necessary documentation to be submitted on non-judicial stamp paper of the value of Rs. 100/- but the petitioners even having the knowledge of the same, instead of submitting the said Form on Rs. 100/- stamp paper, have submitted in the plain white paper which is contrary to the terms and conditions of the tender document and accordingly, the respondents have rejected the techno commercial bid of the petitioners.

- 10.** Mr. Chakraborti submits that in the tender document, it is categorically mentioned that the certificate of local content as per Form-1, is a mandatory document but the petitioners have not filed the said certificate on Rs.100/- stamp paper, thus the techno commercial bid of the petitioners was rejected.
- 11.** Mr. Chakraborti submits that the petitioners have relied upon the judgment of the Hon'ble Delhi High Court which is of 2017 but the Ministry of Communications (Department of Telecommunications) has issued a notification on 21st October, 2024 i.e. after the judgment of the Delhi High Court wherein it has been clarified that in terms of Clause 9(a) of the DPIIT's PPP-MII order dated 19th July, 2024, a supplier at the time of tender, bidding or solicitation shall provide self-certification in Form-1 specifying that the items offered meet the minimum local content requirement and shall give details of the locations at which the local value addition is made and the said Form is notified in the said Memorandum which is to be submitted on a non-judicial stamp paper

of the value of Rs.100/- but in the present case, the petitioners have not complied with the said mandatory provisions by submitting the undertaking on Rs. 100/- stamp paper.

- 12.** Mr. Chakraborti submits that the respondents have rejected the techno commercial bid of the petitioners, as the petitioners have not complied with the terms and conditions of the tender documents. He further submits that as per the terms and conditions of the tender documents, it is categorically mentioned that after opening of the tender, any document/credential about the firm's Technical & Financial eligibility and constitution will neither be asked nor be entertained/ considered under any circumstances and nor claimed or representation whatever in this regard, from the tenderer, shall be entertained.
- 13.** Heard the Learned Counsel for the respective parties, perused the materials on record and the judgments relied by the parties.
- 14.** The only issue in the present writ proceeding, whether the respondents have rightly rejected the techno commercial bid of the petitioners for not submitting the local content declaration on Rs. 100/- stamp paper though the petitioners have submitted the same in plain white paper.
- 15.** Admittedly, the petitioners instead of submitting the declaration of local content on Rs. 100/- stamp paper, have submitted the same in a plain white paper. Immediately, when the techno commercial bid of the petitioners was rejected on the aforesaid ground, the petitioners have made a representation to the respondent authorities informing that the

petitioners have furnished each and every particular and also complied with all the provisions of the tender. The petitioners have submitted the local content declaration in plain white paper and have informed the respondents that the petitioners are ready to furnish local content declaration on Rs. 100/- stamp paper. In Clause 5(3), it is mentioned that the documents uploading is allowed but optional. In the General Instructions, wherein the mandatory documents have been prescribed, it is mentioned that documents uploading is not allowed. In the subsequent tender issued by the respondents, the respondents have rectify the same and made in mandatory.

- 16.** In the IREPS portal, the submission of Form-1 is also being written as optional though the petitioners have uploaded the Form-1 in plain white paper duly stamped and signed by the petitioners. In the said Form, it is also mentioned that the percentage of local content in the material being offered be entered as “0” for fully imported items, and 100 for fully indigenous items by the petitioners.
- 17.** The certificate of local content as per Form-1 is a mandatory document. The petitioners have submitted the said Form in plain white paper instead of Rs. 100/- stamp paper. In Clause 51 of the tender document, it is mentioned that the format for self-certification regarding local content shall be submitted along with the bid without which the offer will be rejected. It is also provided that in case a complaint is received by procuring entity or the concern Ministry/ Department against the claim of a bidder regarding local content in a locally supplied telecom

product, services/works, the same shall be referred to the Committee. The Committee should dispose of the complaint within four weeks, as far as possible from the date of receipt of the said complaint along with all necessary documentation in support of local content claimed by the bidder.

- 18.** It is not the case of the respondents that the petitioners only to suppress or for giving a false declaration, have not submitted the local content declaration on Rs. 100/- stamp paper. There is no complaint against the petitioners with regard to the local content. The notification issued by the Ministry of Communications dated 21st October, 2024, prescribed the Form-1 which is incorporated along with the tender document. In the said Form, the bidder has to certify that the particulars furnished by the bidder are correct and complete and had complied with the terms and conditions of the DPIIT PPM-MMI order dated 19th July, 2024 and DoT PPP-MII Notification. The petitioners have provided the said undertaking in the plain white paper. The petitioners also requested the authorities that as per sub-clause (3) of Clause 5, the uploading of the documents are “allowed” but it is optional and under the General Instructions, the mandatory documents are not allowed to be uploaded. Taking into consideration of Clause 5(3) and General Instructions as well as Form-1, the conditions are contradictory. If uploading of the documents is not mandatory or not allowed, it is presumed that the documents may be submitted subsequently. The said fact is also admitted by the respondents by

issuing subsequent tender of another similar work in sub-clause (3) of the Clause 5 and in General Instruction, it is made mandatory.

19. When the techno commercial bid of the petitioners was rejected on the ground of non-submission of Form-1 on Rs. 100/- stamp paper, the petitioners have immediately made representation informing that the petitioners are ready and willing to submit declaration of local content on Rs. 100/- stamp paper. But the respondents have neither accepted the request of the petitioners nor have rejected the same.
20. As per sub-clause (3) of Clause 5 and Clause (1) & (2) of General Conditions uploading of documents is not mandatory or allowed and thus, sub-clause (xv) of Clause 1 of General Instructions, would not be applicable in the present case. In the case of **ABC Beverages Pvt. Ltd. (supra)**, the Hon'ble Division Bench of the Delhi High Court has held that the minor procedural defects which are curable should not be allowed to defeat substantive rights or to cause injustice. In the present case, only the petitioners have not submitted the declaration of local content on Rs. 100/- stamp paper instead have submitted on plain white paper though the petitioners are ready to submit the said declaration on Rs. 100/- stamp paper, is a curable defect and the authorities ought to have given an opportunity to the petitioners for submitting the declaration of local content on Rs. 100/- stamp paper.
21. This Court finds that the petitioners have submitted the declaration of local content on plain white paper instead of Rs. 100/- stamp paper is

a curable defect and the respondents ought to have allowed the petitioners to submit the declaration of local content on Rs. 100/- stamp paper instead of rejecting the techno commercial bid of the petitioners.

- 22.** In view of the above, the impugned communication dated 20th May, 2026 wherein the techno commercial bid of the petitioners was rejected is set aside and quashed and the respondent authorities are directed to accept the local content declaration of the petitioners on Rs.100/- stamp paper and to allow the petitioners to participate in their tender process if the petitioners are otherwise eligible.

- 23. WPA No. 12223 of 2026 is allowed.**

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.)