

IN THE HIGH COURT OF JHARKHAND AT RANCHI
W.P. (C) No. 4210 of 2026

M/s United Air Express, a partnership firm, through its partner, Mr. Dinesh Kumar Sonthalia, aged about 54 years, son of Mr. Hari Shankar Sonthalia, having his office at 12, Diagonal Road, Bistupur PO & PS – Bistupur, Town – Jamshedpur, District – East Singhbhum.

... Petitioner

Versus

1. Steel Authority of India Limited, a public sector undertaking, through its Chairman, having his office at Ispat Bhawan, Lodhi Road, PO & PS – Lodhi Road, New Delhi.
2. The Chief Executive Officer, Bokaro Steel Plant, a unit of Steel Authority of India Limited, having his office at Bokaro Steel Plant, PO & PS – Bokaro Steel City, District - Bokaro Steel City;
3. The General Manager, Contract Cell Works, Bokaro Steel Plant, having his office at Paryavaran Bhawan, PO & PS – Bokaro Steel City, Bokaro Steel City;
4. The Deputy General Manager, Contract Cell Works, Bokaro Steel Plant, having his office at Paryavaran Bhawan, PO & PS – Bokaro Steel City, Bokaro Steel City;
5. The Assistant General Manager, Contract Cell Works, Bokaro Steel Plant, having his office at Paryavaran Bhawan, PO & PS – Bokaro Steel City, Bokaro Steel City.
6. FSNL Private Limited, a private limited company registered under the Companies Act, 2013, through its Director, having its registered office at FSNL Bhawan, Equipment Chowk, Central Avenue, PO & PS – Bhilai, District – Bhilai, Chhattisgarh – 490001.

... Respondents

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

For the Petitioner:	Mr Amit Kumar Das, Senior Advocate Mr Rahul Lamba, Advocate Mr Anish Kamal, Advocate Ms Kanu Priya, Advocate
For Resp. Nos.1-5:	Mr Indrajit Sinha, Advocate Mr Shresth Gautam, Advocate

For Resp. No.6: Mr. Padmanav Shahdeo, Advocate
Mr Himanshu Harsh, Advocate
Mr Sanjoy Piprawall, Advocate
Mr Prince Kumar, Advocate
Mr Jay Prakash, Advocate

Reserved on: 31.08.2026

Pronounced on: 02/09/2026

Per M. S. Sonak, C.J.

1. Heard learned counsel for the parties.
2. Rule. The rule is made returnable immediately at the request and with the consent of the learned counsel for the parties.
3. The petitioner, by instituting the instant petition, seeks the following reliefs:-

(a) Setting aside the decision of the Respondent No.1 Company (Annexure 8) whereby the bid offer of the petitioner has been rejected as technically not eligible with respect to the Bid Invitation No. W06/4010034183/7000020135 dated 04.11.2025 issued by the Respondent No.1 Company for its Bokaro Steel Plant;

(b) Also setting aside the decision of the Respondent No.1 Company, as contained in emails dated 26.03.2026 (Annexure 7), 21.03.2026 (Annexure 5) and 11.03.2026 (Annexure 3) of the Respondent No.1 Company, whereby the bid offer of the petitioner has been adjudged as technically not eligible;

(c) Setting aside the outcome of the reverse auction conducted by the Respondent No.1 Company pursuant to the said bid invitation;

(d) Direction upon the respondents to conduct a fresh reverse auction, permitting the petitioner to participate in such reverse auction.

4. The above reliefs are sought in the context of a Bid Invitation dated 04.11.2025, read with the modification/corrigendum dated 06.12.2025, issued by the Steel Authority of India Limited (SAIL), the 1st respondent to this petition, seeking bids for the work/job title “Comprehensive Outsourcing Services – MRD”.
5. The petitioner, along with others, submitted its bid offer. However, by email dated 11.03.2026, the 1st respondent adjudged the petitioner as technically ineligible and called upon the petitioner to furnish experience of excavation of slag pits and processing of slag in a single work order after self-attestation.
6. The petitioner responded to the email. However, the 1st respondent, by yet another email dated 21.03.2026, declared the petitioner as technically ineligible on the ground that the submitted work order does not comply with the similar work criteria as detailed in BI and the experience of excavation of slag pits and processing of slag in a single work order with self-attestation.
7. The petitioner, vide letter dated 23.03.2026, submitted a work completion certificate dated 16.03.2026 issued by Tata Steel Limited to clarify the issue raised by the 1st respondent. Despite

this, the 1st respondent, by yet another email dated 26.03.2026, maintained that the petitioner was technically ineligible. Further, on 31.03.2026, the 1st respondent rejected the petitioner's bid offer, holding that the petitioner was technically ineligible.

8. Post rejection of the petitioner's bid offer, a reverse auction was held on 01.04.2026 in which the 6th respondent was declared as L1. Hence, the present petition seeks the above-referred reliefs.
9. Mr A.K. Das, learned Senior Advocate for the petitioner, submitted that the reason disclosed for holding the petitioner technically ineligible was that the petitioner does not have the required experience in a single work order. He submitted that the bid nowhere requires having such experience in one single work order. The work experience certificates submitted by the petitioner indisputably show that the petitioner had the required work experience through two work orders which were a part of a single work executed by the petitioner for Tata Steel Limited. Thus, the impugned decision to hold the petitioner technically ineligible was *ex facie* arbitrary and unreasonable. He relied on **Kimberley Club Pvt. Ltd. v. Krishna Utpadan Mandi Parishad and Others**, 2025 SCC OnLine SC 2323, to support this contention.
10. Mr A.K. Das, without prejudice to the above contention, submitted that the petitioner was eligible even going by the single work order given, Work Order No. 3000139124/102, through which the petitioner had done excavation of slag from the slag pit and its processing. The value of the work in the said work order was Rs.

55,18,77,901.95, which was much more than the required value under the Bid Invitation. He therefore submitted that the decision to hold the petitioner technically ineligible was vitiated by non-application of mind, ignoring the experience certificate on record and, otherwise, arbitrary and unreasonable.

11. Mr A.K. Das submitted that the 1st respondent has plants at Burnpur, Durgapur and Bokaro. He submitted that the 1st respondent invited Bid Invitations with similar experience requirements for the said three plants. Based on the experience certificate furnished by the petitioner in respect of the present Bid Invitation, the 1st respondent adjudged the petitioner as technically eligible for the plants at Burnpur, Durgapur and Bokaro. He therefore submitted that the 1st respondent, which is a 'State' under Article 12 of the Constitution, acted discriminatorily and has treated the petitioner unequally when it comes to consideration of the petitioner's eligibility status in the present matter. He submitted that such discrimination violates Article 14 of the Constitution. He relied on **Banshidhar Construction Private Limited v. Bharat Coking Coal Limited and Others**, (2024) 10 SCC 273, to support this contention.

12. Mr A.K. Das finally submitted that the interpretation now suggested by the 1st respondent in its returns is contrary to the plain reading of the terms and conditions of the Bid Invitation. He submitted that the interpretation now suggested is belied by the corrigendum/modification in the eligibility criteria dated

06.12.2025 by specifically excluding the expression “hot” from the original terms in the Bid Invitation dated 04.11.2025.

13. Based on the above, Mr Das submitted that the eligibility criteria in the subject Bid Invitation could never be interpreted as requiring the bidder to have experience in the excavation of hot slag or slag from hot slag pits as was now sought to be contended. He submitted that the modification in the eligibility criteria was made only because the scope of the work in the Bid Invitation was not to excavate hot slag but to excavate slag only after the same was cooled. Accordingly, Mr Das submitted that there was legal *mala fides* in the non-consideration of the petitioner’s bid offer after holding the petitioner as technically ineligible.
14. For all the above reasons, Mr Das submitted that this petition may be allowed, the adjudging of the 6th respondent be set aside, and the petitioner be allowed to participate in the reverse bidding process as contemplated under the Bid Invitation.
15. Mr Indrajit Sinha, the learned counsel for the 1st respondent, at the outset, submitted that the scope for interference in such matters is extremely limited, as held by the Hon’ble Supreme Court in the cases of **Tata Cellular v. Union of India**, (1994) 6 SCC 651; **Central Coalfields Ltd. v. SLL-SML**, (2016) 8 SCC 622; **Michigan Rubber (India) Ltd. v. State of Karnataka**, (2012) 8 SCC 216; and **Afcons Infrastructure Ltd. v. Nagpur Metrol Rail Corpn. Ltd.**, (2016) 16 SCC 818.

16. Mr Sinha submitted that the eligibility criteria, which included completion of similar works, were clearly set out in the Bid Invitation. Further, the expression “similar nature of work” was also clearly defined. He submitted that the competent committee, comprising experts, fairly considered the petitioner's case and, based on documents such as the experience certificates produced by the petitioner, adjudged the petitioner technically ineligible for not fulfilling the prescribed eligibility criteria. This was after affording the petitioner a suitable opportunity to clarify the matter and produce evidence. He submitted that this decision was most reasonable and arrived at after adopting a transparent and fair process.
17. Mr Sinha submitted that there were no allegations of *mala fides* or favouritism. He submitted that mere use of such words in some places of the petition cannot be construed as proper pleadings to raise a serious plea of *mala fides* or extraneous consideration. In the absence of such pleadings and such charge, Mr Sinha submitted that this Court may not interfere with the decision of experts arrived at in a fair and reasonable manner.
18. Mr Sinha submitted that the terms of the Bid Invitation required the bidder to have completed similar works each costing a particular amount. The expression “similar work” was further clarified as follows: for each work order, the required experience was in excavation/extraction/digging of slag metal from running/operating slag pits of a steel melting shop and processing

the same in an operating steel plant. From the replies and the certificates produced by the petitioner herein, it was apparent that the petitioner did not meet such eligibility criteria. He submitted that if the petitioner really believed that it fulfilled the eligibility criteria based upon a single work or single work order, there was no necessity of the petitioner producing two independent work orders to showcase its eligibility.

19. Mr Sinha submitted that the eligibility criteria in the bid invites concerning other plants of the 1st respondent could not be said to be identical or similar to the eligibility criteria prescribed in the present Bid Invitation. He submitted that there is no question of any discrimination involved.
20. Mr Sinha submitted that the petitioner, along with a supplementary affidavit filed in these proceedings without even seeking a leave of this Court, has purported to bring on record an additional experience certificate or a clarification from Tata Steel Limited with regard to the experience certificate already furnished. He submitted that such a certificate does not advance the petitioner's case. In any event, such certificates or explanations in supplementary affidavits after this matter was partly argued indicate that the experience certificates and other evidence on record were by no means sufficient to indicate the petitioner's satisfaction of the eligibility criteria.
21. Mr Sinha submitted that the decision as well as the decision-making process in this case was fair and transparent. No case of

any factual *mala fides* or extraneous considerations has been pleaded or made out. Given the limited scope of interference in such matters, Mr Sinha submitted that this petition ought to be dismissed.

22. The rival contentions now fall for our determination.

23. The Bid Invitation in the present matter was for “*Digging, Evacuation of Slag/Scrap/Debris from //slag pits and various bays of SMS, Transportation of slag, Muck, debris to material recovery plant and segregation and processing of scrap to chargeable size and transport to magnetic yard of SMS.*”

24. The eligibility criteria for the bidders were set out in Annexure–VI of the Bid Invitation. Since in this matter we are concerned with the clauses dealing with “*UNIFORM TECHNICAL ELIGIBILITY*” and “*Similar Nature of Work*”, the relevant extracts are transcribed below for the convenience of reference:-

“B. UNIFORM TECHNICAL ELIGIBILITY.

Experience of having successfully completed or substantially completed similar work by the bidder during last seven (07) years ending last day of month previous to the one in which tender is issued should be either of the following:

i) *Three similar completed works each costing not less than the amount equal to 40% of Reference Value: (Rs. 23,59,46,195.32)*

OR

ii) *Two similar completed works each costing not less than the amount equal to 50% of the Reference Value: (Rs. 29,49,32,744.148)*

OR

iii) *One similar completed work costing not less than the amount equal to 80% of the Reference Value. (Rs. 47,18,92,390.66)*

C. Similar Nature of Work.

“Experience of Excavation of Slag, Metal from hot slag pits & Processing of the same in a operating integrated Steel Plant having atleast 2.5 MT annual capacity, where processing means separation of slag and metal and its sizing, screening, extraction/excavation/ crushing/ separate etc.”

25. The above eligibility criteria were modified on 06.12.2025, providing for the following:-

i) *Three similar completed works each costing not less than the amount equal to 30% of Reference Value; (Rs. 17,69,59,646.49)*

OR

ii) *Two similar completed works each costing not less than the amount equal to 37.5% of the Reference Value; (Rs. 22,11,99,558.11)*

OR

iii) *One similar completed work costing not less than the amount equal to 60% of the Reference Value. (Rs. 35,39,19,292.98)*

26. The petitioner submitted its bid along with a work experience certificate issued by Tata Steel. The certificate referred to the two work orders issued in 2018 and 2021, thereby *prima facie* indicating that they pertain to two separate works. The 1st Respondent's case is that the petitioner was attempting to club the work experience of these two works and pass it off as a single work, only to somehow project a case of meeting the prescribed eligibility criteria.

27. Therefore, by email dated 11.03.2026, the 1st respondent informed the petitioner that it had been adjudged “Technically Not Eligible” after evaluation. However, the petitioner's bid offer was not

immediately rejected; instead, the petitioner was given an opportunity to clarify or submit additional documents online within seven days of the email being issued.

28. Further, the petitioner was informed of the following technical reasons for which the petitioner was adjudged as technically not eligible: -

“Technical reasons:

1. *Submitted Work Order do not comply with the similar nature of work criteria as detailed in the BI. Submit experience of excavation of Slag Pit and processing of Slag in a single Work order with self attested.*
2. *You have not submitted document(s) in compliance with the Para-D of the eligibility criteria as detailed in the BI. Submit the same (Declaration of site visit not submitted)”*

29. The petitioner responded to the above-referred email dated 11.03.2026 on 18.03.2026. The petitioner enclosed a completion certificate from Tata Steel by citing the same as “*composite in nature*”, wherein “*the overall scope covers the entire scope of work of excavation of slag pits and processing of slag etc.*” It was explained that, “*The said work was operationally executed through two different interlinked work orders, details of which are as below:*

1. Mechanised Feeding of Slag at MRP
Work Order No.: 3000139124/102
Value: ₹55,18,77,901.95 (Excl. GST)”

30. The Petitioner’s clarification dated 18.03.2026 proceeded to offer the following justification: -

“Justification:

Both the above work orders are part of a single integrated project under the same department and collectively fulfill the requirement of scope and clarification of your queries.

Hence, the submitted completion certificate substantiates compliance with the similar nature of work criteria as specified in the bid.

Attachments:

- *Self-attested certificate from Tata Steel confirming both work orders are part of a single work.*
- *Self-attested Completion Certificate*
- *Copies of both duly signed Work Orders.”*

31. The petitioner, by way of “response to”, further went on to explain that it has submitted Work Order No. 3000139124 dated 01.08.2021 for “Mechanised Feeding of Slag at MRP” having a value of Rs. 55,18,77,901.95 (Excl. GST). The petitioner explained that the scope of this work includes excavation of slag from slag pits and processing of slag in MRP, along with screening, handling, and transportation, etc., through mechanised means, which complies with the required criteria.
32. After considering the petitioner’s clarification dated 18.03.2026 and the documents provided along with it, the Evaluation Committee of the 1st respondent apparently did not agree with the petitioner's contention that it fulfilled the eligibility criteria based on the documents originally submitted or additionally provided on 18.03.2026.
33. Therefore, by email dated 21.03.2026, the 1st respondent informed the petitioner that it was adjudged technically not eligible for the following technical reasons:-

“Technical reasons:

- 1. Submitted Work Order do not comply with the similar nature of work criteria as detailed in the BI. Experience of excavation of Slag Pit and processing of Slag in a single Work Order with self attestation not submitted.”*

34. By the above-referred email dated 21.03.2026, the petitioner was given once again further opportunity to clarify the position by 24.03.2026. The petitioner availed of this opportunity vide letter dated 23.03.2026, maintaining that the experience certificate submitted by the petitioner related only to one work which was divided into two work orders, much above the values prescribed in the Bid Invitation documents. The petitioner attempted to make a distinction between “*one similar completed work*” and “*one similar work order*” and tried to argue that upon a conjoint reading of the two work orders and treating them to be a part of one composite work, the petitioner fulfilled the technical eligibility criteria as prescribed in the Bid Invitation.

35. Again, after considering the petitioner’s repeated assertions, the Evaluation Committee concluded that the petitioner was technically not eligible. This was informed to the petitioner vide email dated 26th March 2026. The technical reason for holding the petitioner as technically not eligible was stated as follows:-

“Technical reasons:

- 1. Submitted Work Order do not comply with the similar nature of work criteria as detailed in the BI. Experience of excavation of Slag Pit and processing of Slag in single Work order not submitted.”*

36. Again, vide email dated 26.03.2026, the petitioner was given a further opportunity to clarify the matter by 28.03.2026. There is no record of the petitioner further clarifying the matter. Finally, on 31.03.2026, the 1st respondent rejected the petitioner's bid on the ground that the petitioner was found technically ineligible.
37. From the above chronology of events, at least the charge of lack of transparency or of a fair decision-making process fails. The petitioner was informed of the precise reasons the committee was troubled by the petitioner's technical eligibility claims and the petitioner was granted no fewer than three opportunities to clarify or explain the matter and even to produce additional documents. The record shows that the petitioner availed of such opportunities.
38. The committee may not have ultimately agreed with the petitioner's clarifications or been satisfied with the additional material produced. But merely because the evaluation committee, after duly considering the matter and the additional material produced, did not agree with the petitioner's clarifications or was not satisfied with the additional material produced, we cannot hold that there was any lack of transparency or fairness in the decision-making process.
39. As held by the Hon'ble Supreme Court in **Tata Cellular (supra)**, the principles of judicial review apply to the exercise of contractual powers by Government Bodies to prevent arbitrariness or favouritism. The right to choose cannot be an arbitrary power

unless such power is exercised for any collateral purpose or is actuated by *mala fides*.

40. Further, the Hon’ble Supreme Court has held that *judicial review is primarily concerned with the decision-making process itself, not the merits of the decision on which the application for judicial review is based. It is different from an appeal. The court cannot substitute its own decision. Apart from the fact that the court is hardly equipped to do so, it would not be desirable either. Where the selection or rejection is arbitrary, certainly the court would interfere. However, it is not the function of a judge to act as a superboard, or with the zeal of a pedantic schoolmaster substituting its judgment for that of the administrator.*

41. In **Tata Cellular (supra)**, the Hon’ble Supreme Court explained that the court’s duty is to confine itself to the question of legality. Its concern should be: (i) Whether a decision-making authority exceeded its powers? (ii) Committed an error of law, (iii) committed a breach of the rules of natural justice, (iv) reached a decision which no reasonable tribunal would have reached, or (v) abused its powers.

42. The Hon’ble Supreme Court further explained that in such matters, the scope of judicial review must broadly extend to determining illegality, irrationality and procedural impropriety. Further, in all such cases, the test to be adopted is that a court should, “*consider whether something has gone wrong of a nature and degree which requires its intervention*”.

43. The principles deducible in such matters are as follows:

- (i) The modern trend points to judicial restraint in administrative action.
- (ii) The court does not sit as a court of appeal but merely reviews the manner in which the decision was made.
- (iii) 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.
- (iv) 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.

- (v) 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.

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

44. As noted earlier, several opportunities were granted to the petitioner to clarify the issue of eligibility, and the clarifications, along with the additional documents submitted by the petitioner, were duly considered by the Evaluation Committee, thereby defeating any charge of lack of transparency or fairness in the decision-making process. The fact that the petitioner's clarifications or explanations may not have been accepted by the decision makers is not a ground to conclude that there was any unfairness or unreasonableness or arbitrariness involved in the decision-making process leading to the decision of declaring the petitioner as technically ineligible.

45. Even on the merits, given the limited scope of interference in judicial review proceedings, it is difficult to hold that *the impugned decision is so wrong in nature and degree as to require the court's intervention*, or that the impugned decision is such that *no responsible authority acting in a responsible manner and in accordance with the relevant law could ever have reached it*.

46. In the eligibility criteria, whether contained in the Original Bid Invitation or the Modified Bid Invitation, there was consistent reference to completion of works "*each costing*" not less than the amounts specified for the similar completed works. The expression "similar nature of work" was also adequately defined. The

documents submitted by the petitioner in respect of the eligibility criteria, at least *prima facie*, did not refer to any single work but rather to the two works completed by the petitioner under two distinct work orders dated 04.05.2018 and 01.08.2021.

47. The contention that this relates to a single work executed under two work orders cannot be accepted at face value. Similarly, the contention regarding the scope or perceived scope of the works, and whether omitting the word “hot” from the modified eligibility criteria resulted in any significant alteration to the scope of the works or the prescribed eligibility criteria, is a question best addressed by the Evaluation Committee rather than a court of law, which has neither the expertise in such matters nor is it expected to sit in appeal over the decisions of such Evaluators and Evaluation Committees.
48. The record shows that each time the petitioner came out with some different explanations and grounds in support of its claim of eligibility. In the petition, an attempt is made to draw out a distinction between “works” and “work orders”. No such serious distinction appears to have been drawn in the numerous explanations offered by the petitioner when given an opportunity to do so. Instead, the attempt was to insist that the Tata Steel Project’s experience related only to a single work which was to be executed through two distinct and separate work orders issued on 04.05.2018 and 01.08.2021.

49. By filing a supplementary affidavit before this Court after the arguments were partly concluded, and without even seeking the leave of this Court, a certificate dated 28.08.2026 was sought to be placed on record. This certificate, issued *post hoc*, purports to explain that the two work orders were running concurrently and pertained to a single work order that was not provided at the tendering stage.
50. The argument based on one of the two work orders produced by the petitioner in support of the petitioner's contention about fulfilling the eligibility criteria also cannot be accepted. If the petitioner was indeed confident of such an argument, we fail to understand why the petitioner produced more than one work order over a period of three years.
51. *Post facto* explanations furnished by the issuer of the experience certificate also cannot be ordinarily considered. The fact that such explanations were sought to be produced on record after the matter was argued substantially and that too, without the leave of this Court, suggests some attempt to pass off the two works as parts of, or as the same work. The theory that the two work orders were running concurrently, though belatedly introduced, does not explain why the two work orders were issued in 2018 and 2021, i.e. almost three years apart.
52. The certificate produced along with a supplementary affidavit also refers to this position not being clarified at the tendering stage. Given this situation, we can hardly fault the decision of the 1st

respondent or its Evaluation Committee in holding the petitioner technically ineligible. In any event, as we have stated, the fact that we might have a different opinion is hardly a ground to substitute our opinion for that of the decision maker.

53. These *post facto* explanations and contradictory stands adopted by the petitioner are sufficient to hold that no case is made out to interfere with the decision of the Experts comprising the Evaluation Committee in declaring the petitioner as technically ineligible. The 1st respondent or its Evaluation Committee is expected to reach a fair decision by following a fair process. This Court is not expected to sit in appeal over such a decision, unless any case of *mala fide* or extraneous consideration is properly pleaded and established.
54. Thus, even if some allowance is made for the primarily semantic argument of a single work and a single work order, the committee's conclusion that the petitioner was technically ineligible, given the time gap between the two work orders and the scope of the works, can hardly be condemned as perverse, illegal or irrational warranting judicial review.
55. In **Tata Cellular (supra)**, the Hon'ble Supreme Court explained that, when exercising judicial review, the court is mainly concerned with the lawfulness of the decision, not its soundness. Normally, the decision to accept the tender or award the contract is reached through a process of negotiations across several tiers. More often than not, such decisions are made qualitatively by

experts. The court does not have the expertise to correct the administrative decision. If a review of the administrative decision is permitted, it would substitute its own decision, without the necessary expertise, which itself may be fallible.

56. In **Michigan Rubber (supra)**, the Hon'ble Supreme Court explained that the court's interference is not warranted unless the tendering authority's action is *mala fide* and a misuse of statutory powers. The court should not interfere merely because it feels other terms in the tender would have been fairer, wiser, or more logical. The main issue to be adjudicated in a tender matter is whether the process adopted or the decision made is *mala fide* or intended to favour someone, or whether the process adopted or *the decision made is so arbitrary and irrational that the court can say that the decision is such that no responsible authority acting in a responsible manner and in accordance with the relevant law could have ever reached.*

57. In **Afcons Infrastructure Ltd (supra)**, the Hon'ble Supreme Court held that even in interpreting tender conditions, interference is permissible if the decision is arbitrary or irrational, or such that no responsible authority acting reasonably and in accordance with law could have reached it. Further, perversity of the decision-making process or the decision, not merely a faulty or erroneous decision, is a ground for interference by the courts. Constitutional Courts are expected to exercise restraint in interfering with

administrative decisions and ought not to substitute their view for that of the administrative authority.

58. The Hon'ble Supreme Court held that a mere disagreement with the decision-making process or the decision of the administrative authority is no reason for a Constitutional Court to interfere. Constitutional Courts must defer to the authority's understanding and appreciation of the tender documents, unless there is *mala fide intent* or perversity in the understanding or appreciation, or in the application of the terms of the tender conditions. A different interpretation given by the authority, which is not acceptable to the court, is no ground for a Constitutional Court to interfere with the authority's interpretation unless it is proved to be perverse or *mala fide* or intended to favour a particular bidder.
59. By applying the above principles, we are satisfied that the impugned decision in this matter cannot be said to be vitiated by illegality, irrationality or procedural impropriety. The decision-making process by which such decision was reached was fair and transparent, consistent with the rules of natural justice. There are neither any pleadings nor any materials to infer *mala fides* or abuse of power.
60. This is not a case where the petitioner was not given any opportunity to make good its claim about fulfilling the prescribed eligibility criteria. The clarification and the materials furnished by the petitioner were duly considered. The decision can certainly not be styled as so outrageous in its defiance of logic or of accepted

moral standards that no sensible person who had applied his mind to the question to be decided could have arrived at. The decision is also not such that no authority properly directing itself on the relevant law and acting reasonably could have reached it.

61. The decision in **Kimberley Club Pvt. Ltd. (supra)** cited by Mr Das holds that the terms of an NIT must be clear and unambiguous. It also reiterates that the court exercising judicial review does not sit in appeal over the tendering authority's decision to disqualify a bidder. Only in cases where such decision is *de hors* the terms of the NIT or is patently arbitrary, would the court exercise power of judicial review and set aside such a decision.
62. In the present case, there was no complaint that the terms of the Bid Invitation were unclear or ambiguous. The decision reached by the 1st respondent or its Evaluation Committee cannot be said to be *de hors* the terms of the NIT or patently arbitrary. At the highest, this is a case of interpretation of the terms of the bid invite and determining whether, based on the material originally and additionally produced, the petitioner could be regarded as technically eligible. Once a decision is reached in a fair and transparent manner and such decision is not perverse [as opposed to it being merely erroneous] or irrational, the scope to interfere in the exercise of judicial review is indeed limited.
63. As held in **Afcons Infrastructure (supra)**, the Constitutional Courts must also defer to the tendering authorities' understanding and appreciation of the tender documents, or to their interpretation

of the terms, unless there is *mala fides* or perversity in the understanding or appreciation, or in the application, of the terms of the tender conditions. Even if the authority's interpretation may not be acceptable to the courts, the Constitutional Courts must not interfere with it unless it is established that it is perverse, *mala fide*, or intended to favour a particular bidder.

64. The argument about discrimination also cannot be accepted in the light of the facts and circumstances of the present case. It is difficult, at least on a prima facie basis, to hold that the eligibility conditions in the Bid Invitations for three other plants of the 1st respondent were the same as the eligibility criteria prescribed for the present Bid Invitation. Secondly, it is difficult to accept that the scope of the works and all the plants were identical and similar, as was argued on behalf of the petitioner.
65. In any event, the petitioner cannot expect the Court to scrutinise and interpret the terms and conditions and the experience certificates of other bid invitations, comparing them with the present bid invitation with a fine-toothed comb. A prima facie examination is all that is warranted, particularly after the decision-makers have evaluated the matters thoroughly and no case of mala fides or favouritism has been pleaded or established.
66. Ultimately, these are matters which have been considered by the Evaluation Committee of the 1st respondent, and unless it is established that there was any infirmity in the decision-making process or that the decision was perverse as opposed to merely

erroneous, there is no scope to interfere. In fact, in such matters, this Court is prohibited from acting *as a superboard or with the zeal of a pedantic schoolmaster, substituting its judgment for that of the administrator.*

67. In **Banshidhar Construction (supra)**, the Hon'ble Supreme Court held that Constitutional Courts, when exercising judicial review, cannot examine the details of the terms of the contract entered by the public body or the State. Courts have inherent limitations on the scope of any such enquiry. At the same time, the courts can examine whether the decision-making process was reasonable, rational, or arbitrary, and violative of Article 14 of the Constitution.
68. In this case, the petitioner invites us to examine the terms of the Bid Invitation documents and to adopt the petitioner's interpretation, in preference to the interpretation adopted by the 1st respondent and its Tender Evaluation Committee. Such an invitation, if accepted, would run counter to the law laid down in **Afcons Infrastructure Limited (supra)**. That case holds that the constitutional Courts must defer to the authority's interpretation of the terms and conditions in the NIT.
69. For all the above reasons, we are satisfied that the impugned decision is not perverse and is not actuated by any *mala fide*, discrimination or undue favouritism. No case is made out for interference with the impugned decision, having regard to the limited scope of judicial review in such matters.

70. The petition is, thus, liable to be dismissed and is hereby dismissed, without any order for costs. IAs, if any, pending in this petition will not survive and are disposed of.

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

(Rajesh Shankar, J.)

September 02, 2026

A.F.R.

Manoj/Cp.2

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