

GAHC010065062024



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/1750/2024

GOURPADA ROY AND 4 ORS
SON OF LATE RATI RANJAN ROY, PROPRIETOR OF M/S GOURPADA ROY,
OF STEAMERGHAT ROAD KARIMGANJ, P.O. KARIMGANJ, P.S.
KARIMGANJ, PIN- 788710, DISTRICT- KARIMGANJ, ASSAM

2: SRI DIPJOY DAS
S/O- SRI HIMANGSHU SEKHAR DAS
OF HOSPITAL ROAD KARIMGANJ
P.O. AND P.S. KARIMGANJ
PIN- 788710
DISTRICT- KARIMGANJ
ASSAM

3: SRI JOYDEEP DEB
S/O- LATE BALARAM DEB
OF FOREST OFFICE ROAD KARIMGANJ
P.O. KARIMGANJ
P.S. KARIMGANJ
PIN- 788710
DISTRICT- KARIMGANJ
ASSAM

4: SRI GOPAL DEB
S/O- LTE SWADESH RANJAN DEB
PROPRIETOR OF M/S S.R. DEB ENTERPRISE
OF MAIN ROAD KARIMGANJ
P.O. AND P.S. KARIMGANJ
PIN- 788710
DISTRICT- KARIMGANJ
ASSAM

5: SRI DIPJYOTI DAS
S/O- HIMANGSHU SEKHAR DAS
OF HOSPITAL ROAD KARIMGANJ

P.O. AND P.S. KARIMGANJ
PIN- 788710
DISTRICT- KARIMGANJ
ASSA

VERSUS

THE STATE OF ASSAM AND 5 ORS
REPRESENTED BY THE SECRETARY, GOVT. OF ASSAM, HOME
DEPARTMENT, DISPUR, GUWAHATI- 781006

2:THE INSPECTOR GENERAL OF PRISONS
ASSAM
ASSAM PRISONS HEADQUARTERS
KHANAPARA
GUWAHATI-22

3:THE SUPERINTENDANT
CENTRAL JAIL
SILCHAR
PIN- 788001
DISTRICT- CACHAR
ASSAM

4:THE SUPERINTENDANT
DISTRICT JAIL
HAILAKANDI
PIN- 788151
DISTRICT- HAILAKANDI
ASSAM

5:THE SUPERINTENDANT
DISTRICT JAIL
KARIMGANJ
PIN- 788710
DISTRICT- KARIMGANJ
ASSAM

6:THE SUPERINTENDANT
SUB-JAIL
HAFLONG
PIN- 788819
DISTRICT- DIMA HASAO
ASSA

Advocate for the Petitioner : MR. S D PURKAYASTHA, MS S.S.BORA

Advocate for the Respondent : GA, ASSAM,

**BEFORE
HONOURABLE MR. JUSTICE N. UNNI KRISHNAN NAIR**

Date of Hearing: 23.09.2024

Date of Judgment: 04.10.2024

JUDGMENT & ORDER (CAV)

Heard Mr. S. D. Purkayastha, learned counsel for the petitioners. Also heard Ms. U. Das, learned Addl. Senior Government Advocate appearing for the State respondents.

2. The petitioners, by way of instituting the present proceeding have presented a challenge to a NIT dated 06.03.2024, issued by the Inspector General of Prisons, Assam, more particularly, to the tender conditions at Clause 4 & 44 of the "Additional Terms and Conditions" of the said NIT to the extent that the said clauses has the effect of excluding the petitioners from the said tender process.

3. The petitioners, herein, have projected that they are presently supplying dietary articles under various groups to Central Jail, Silchar; District Jails, Hailakandi & Karimganj and Sub-Jail, Haflong since the last two years on the contracts for effecting such supplies being settled with them. It is the contention of the petitioners that during the earlier years, the tenders for supply of dietary articles were being so issued by the authorities of the respective jails. However, by effecting a change in the policy, the Inspector General of Prisons, Assam, proceeded to issue an NIT dated 06.03.2024; by amalgamating six prisons i.e., Central Jail, Silchar; District Jails, Hailakandi & Karimganj and the Sub-Jail, Haflong into one zone i.e., Zone-6. The supply of dietary articles for the inmates of the said jails were divided into various groups i.e., Group-A, B, C, D & E. The said NIT under the Additional Terms and Conditions, in Clause-4 by assigning

values against each of the Groups involved has mandated that the intending bidder must have minimum Average Annual Turnover for the last three years, equal to the value as assigned for each of the groups involved, along with the stipulation that the bidder should also furnish turnover from similar nature of business certified by the C.A., which should be atleast be 30% of the total turnover. Further, under Clause-44 of the Additional Terms and Conditions of the said NIT, it was stipulated that the tenderer should have minimum three years experience of supply of the quoted items to any Central/State Govt. Organization/PSU/Public Listed Company.

4. The petitioners have contended that the estimation of the value against each of the groups as made in Clause-4 is excessive and not in consonance with the total quantity of the dietary articles required to be supplied against each of the individual groups. Further, the petitioners have contended that the stipulations so made in Clause 44 would have the effect of restraining the petitioners, herein, from submitting their bids, inasmuch as, most of them had not fulfilled the minimum criteria of three years of experience of supply of quoted items to the organizations so mentioned in the clause. The petitioners, by contending that they being the present contractors supplying the dietary articles to the jails involved, the provisions of Clause-4 & 44 of the Additional Terms and Conditions of the NIT dated 06.03.2024; were so incorporated so as to oust them from the purview of the said tender process. The petitioners having been rendered ineligible to submit their bids in pursuance to the NIT dated 06.03.2024, have by way of instituting the present proceeding, assailed the provisions of the said NIT.

5. Mr. S. D. Purkayastha, learned counsel for the petitioners by reiterating the fact that the petitioners, herein, were awarded with the contract for supply of dietary articles to the jails now forming part of Zone-6 in the NIT dated

06.03.2024, atleast for the last two years i.e., 2022-2023 and 2023-2024, have acquired the requisite experience for effecting of such supplies. Mr. Purkayastha has further submitted that there exists no allegation against the present petitioners of having failed to supply the dietary articles of the groups so involved, contract for which were so awarded to them for the above noted years.

6. Mr. Purkayastha, learned counsel for the petitioners, has further submitted that the NIT dated 06.03.2024, was so published by amalgamating the Central Jail, Silchar; District Jails, Hailakandi & Karimganj and the Sub-Jail, Haflong into one zone i.e., Zone-6, departing from the earlier practice of inviting such bids individually by the authorities of each of the jails so involved. Mr. Purkayastha has submitted that the centralized supply now brought into operation vide the NIT dated 06.03.2024, was so done so as to render the present petitioners ineligible to participate in the tender process. The learned counsel for the petitioner has further submitted that the NIT dated 06.03.2024, was not notified or circulated through the respective jails in question, nor it was published in any local Newspapers circulating in the districts of Cachar, Karimganj, Hailakandi and Haflong. Accordingly, it was submitted that the petitioners were not aware about issuance of such centralized NIT and could come to learn of issuance of such NIT only on 22.06.2024.

7. The learned counsel for the petitioners by referring to the provisions of Clause-4 has submitted that the amounts so specified against the various groups involved, are clearly exaggerated, inasmuch as, the same is much beyond the total value of the dietary items, required to be so supplied against each of the said groups. The value of the dietary articles, to be so supplied, against each of the said groups, have been so assigned basing on an imaginary calculation and the stipulation of Clause-4, requiring a bidder to have a minimum Average of Annual Turnover over the last three years to the extent of the value now assigned

against each of the groups involved, has the effect of rendering the petitioners, herein, ineligible to participate in the said tender process. Mr. Purkayastha by referring to the provisions of Clause-4, which further mandates that the bidder should also furnish turnover from similar nature of business certified by a C.A., which should be at least 30% of the total turnover, submits that such stipulation was so made so as to facilitate the interest of certain identified bidders and to facilitate their participation in the said tender process, without they having the requisite experience of making actual supplies to the jails in question. Mr. Purkayastha submits that the tender conditions have been so tailored made so as to facilitate certain individuals and, at the same time eliminate the petitioners from the tender process.

8. Mr. Purkayastha, learned counsel for the petitioners, in support of his submission has relied upon a decision of the Hon'ble Supreme Court of India in the case of **Meerut Development Authority Vs. Association of Management Studies & Another**, reported in **(2009) 6 SCC 171**.

9. Mr. Purkayastha has by referring to the provisions of Clause-4 & 44 of the Additional Terms and Conditions of the NIT dated 06.03.2024, has submitted that the said clauses are not capable of being discerned to have emanated from any established principle and also cannot be said to be reasonable. It is the contention of the learned counsel for the petitioner that the said clauses are arbitrary and accordingly, in violation of the provisions of Article-14 of the Constitution of India. In support of the said submission, Mr. Purkayastha, learned counsel for the petitioner, has relied upon the decision of the Hon'ble Supreme Court in the case of **Union of India & Anr., Vs. International Trading Co.**, reported in **(2003) 5 SCC 437**.

10. Per contra, Ms. U. Das, learned Addl. Senior Government Advocate has, at the outset, submitted that the Government of Assam in the Home (B)

Department vide the Office Memorandum dated 07.01.2012, on observing that the procurement of essential dietary and non dietary items under various groups of the Jail Manual, through the process of initiating tender locally by the Superintendent of concerned jails was prone to difficulties in arriving at common rates and quantity of items due to the small size of procurement, proceeded to amalgamate the various jails in the State under five different zones and a decision was so arrived at to issue tenders for procurement of dietary and non dietary articles, centrally (Group wise). The said decision as contained in the O.M. dated 07.01.2012, was however revoked and the earlier practice of invitation of bids through decentralized process was reinforced vide a communication, dated 10.01.2019, issued by the Home (B) Department. However, on a reconsideration of the matter, the Government of Assam, in the Home & Political Department vide a communication dated 20.02.2024, informed the Inspector General of Prisons, Assam, the grant of approval towards Centralized Tendering Process for supply of dietary articles to various jails from the FY 2024-25. The earlier practice of centralized tendering process for the jails (zone wise) was accordingly, re-introduced. It is the contention of Ms. Das, that the NIT dated 06.03.2024, was so issued in terms of the decision as contained in the said communication dated 20.02.2024.

11. Ms. Das has further submitted that the contention of the petitioner that the NIT dated 06.03.2024, was not given wide publicity is clearly perverse, inasmuch as, the said NIT, in addition to being published in the portal, was also widely circulated in various News Dailies of the State on 07.03.2024, by the Director, Information & Public Relation, Assam.

12. Ms. U. Das, learned Addl. Senior Government Advocate, has further submitted that the supply of dietary articles for various jails is a very sensitive matter and as such, by reckoning the earlier experience of bidders being ineligible

to supply dietary articles due to their financial constraints, conditions came to be introduced in the NIT dated 06.03.2024, so as to ensure that the tenderers submitting bids in pursuance to the said NIT were financially sound and well experienced so as to ensure uninterrupted supply of dietary and non dietary items to the jails in question.

13. On a pointed query made by this Court, as to the manner in which the value as assigned in Clause-4 against each of the groups involved were so arrived at, Ms. U. Das, learned Addl. Senior Government Advocate, on instructions, has submitted that the said value was so arrived at after ascertaining the current whole sale rates of the items required to be supplied against each Group and by estimating it with the approximate requirement of such items Group wise for the year.

14. Ms. U. Das, learned Addl. Senior Government Advocate, has placed on record an assessment of the value of the various articles requisite to be supplied against each Groups under 'Group-A' and has contended that the value so assigned in the Clause-4, was so arrived at by making a reasonable estimation of the total value of the quantities required to be so supplied.

15. Ms. Das has further submitted that in pursuance to the tender process, various bidders have participated in the process, however, for 'Group-A' and 'Group-B' only one bid each was so received. In this connection, a communication dated 24.09.2014, issued by the Inspector General of Prisons, Assam was placed on record.

16. I have heard the learned counsels appearing for the parties and had also perused the materials available on record.

17. It is not in dispute that the petitioners, herein, were settled with the contract of supply of dietary articles of various groups to the jails involved, during

the years 2022-23 and 2023-24. It is also not in dispute that the NITs issued prior to the NIT dated 06.03.2024, were being so issued by the authorities of each of the jails involved and there was no centralized tender process. However, in view of the decision of the Government of Assam in the Home & Political Department, as contained in the communication dated 20.02.2024, the centralized tendering process of supply of dietary articles was reintroduced from the FY 2024-25. Such centralized retendering process was to be so carried out Zone wise in terms of the earlier decisions so arrived at in the matter, vide the O.M. dated 07.01.2012. It is to be noted that the policy decision of the Government of Assam for reverting to the centralized tendering process from the FY 2024-25 is not under challenge in the present proceeding.

18. The petitioners in the present proceeding have presented a challenge to the NIT dated 06.03.2024, more specifically, to the eligibility conditions as spelt out under “Additional Terms and Conditions” under Clause-4 & 44 thereof. The said clauses being relevant are extracted herein below:-

“4. The tenderers should have to submit their minimum Average Annual Turnover for last 3 years. The Minimum Average Annual Turnover of the bidder for last 3 years is shown below:-

Name of Group	Amount
Group-A dietary articles	Rs. 205.00 Lakh
Group-B dietary articles	Rs. 75.00 Lakh
Group-C dietary articles	Rs. 110.00 Lakh
Group-D dietary articles	Rs. 115.00 Lakh

The tenderers should also furnish turnover from similar nature of business certified by the C.A. which should be atleast 30% of the total turnover.

44. The tenderer should have minimum 3 years experience to supply the quoted items in any Central/Ste Govt. Organization/PSU/Public Listed Company. Copies of relevant work order should be submitted along with the bid failing which the tenderers will be rejected.”

19. A perusal of the Clause-4 of the said Additional Terms and Conditions would go to reveal that the intending tenderers were required to submit their minimum Average Annual Turnover for the last 3 years. The requisite minimum Average Annual Turnover to be possessed by the intending bidders, Group wise, for the last 3 years was reflected. Further, it was provided that the bidders should also furnish turnover from similar nature of business, certified by a C.A., which should be atleast 30% of the total turnover. While the petitioners are not aggrieved by the requirement to furnish certificates pertaining to their Average Annual Turnover for the last 3 years, the petitioners are basically aggrieved with the value as determined by the tendering authority for each of the groups so involved. The petitioners have contended that the value so assigned, for each of the groups involved, which would be the minimum Average Annual Turnover required to be possessed by a bidder was excessive. The petitioners have contended that the value of the supplies to be made, for each of the groups involved, would be much lower than that prescribed under the provisions of Clause-4. The petitioners have submitted that they are supplying dietary articles to the various jails against the contract so awarded to them since the last 2 years and accordingly, most of them have got no other business and thereby, it would not be possible to them to demonstrate of having a minimum Average Annual

Turnover over the last 3 years to the extent so mandated against each group in Clause-4 of the said Additional Terms and Conditions of the NIT.

20. Further, the petitioners have contended that after having prescribed the minimum Average Annual Turnover, requisite for being eligible to bid for supply of the items against each of the groups involved, as noted herein above, the tendering authority had limited the turnover from a similar nature of business to the extent of only 30% of the total turnover. It is the contention of the petitioners that such a stipulation was so incorporated so as to facilitate certain favored entities to participate in the tender process, while at the same time, ensure that the present petitioners, who are experienced suppliers of dietary articles to the inmates of the various jails are restrained from participating in the tender process so initiated vide the NIT dated 06.03.2024.

21. Likewise, it is the contention of the petitioners with regard to the provisions of Clause-44 that the prescription made therein, that the intending bidder should possess minimum 3 years experience in works of supply of the quoted items to any Central/State Government Organization/PSU and Public Listed Company is clearly not in tune with the requirements, requisite for the works involved in the NIT dated 06.03.2024, inasmuch as, the supply of dietary articles to the inmates of the jails, is a distinct process which is also of a sensitive nature. It is the further contention of the petitioners that by prescribing the conditions as so prescribed under Clause-44, the petitioners not having the experience of 3 years of supplying the dietary articles in the manner, as requisite under Clause-44 of the Additional Terms and Conditions, have now been restrained from submitting their bids in pursuance to the said NIT dated 06.03.2024, arbitrarily.

22. It is a settled position of law that the prescription of eligibility criteria in a tender condition is in the domain of the tendering authority and this Court, in exercise of its power of Judicial Review, would not interfere with such prescription

of tender conditions, until and unless, it is shown that such prescription does not have a nexus with the object sought to be achieved and/or is arbitrary.

23. In the event, it is demonstrated by the aggrieved person that the conditions were so prescribed with a malafide intention and/or is arbitrary, this Court would interfere with such prescription of tender conditions. It is only when the policy or any action of the Government, even in contractual matters, fails to satisfy the test of reasonableness; this Court would in exercise of its power of Judicial Review interfere with such decision.

24. The Hon'ble Supreme Court, in the case of **Union of India Vs. Hindustan Development Corporation**, reported in **AIR 1994 Supreme Court 988**, had observed that the decision taken by the authority must be found to be arbitrary, unreasonable and not taken in public interest where the doctrine of legitimate expectation can be applied. It further went to hold that if it is a question of policy even by change of an old policy, the Courts cannot intervene with the decision. In a given case, whether there are such facts and circumstances, giving rise to legitimate expectation would primarily be a question of fact.

25. It is therefore, clear that the choice of policy is for the decision maker and not the Court. The legitimate substantive expectation merely permits the Court to find out if the change of policy which is cause of defeating the legitimate expectation is irrational or perverse, or one which no reasonable person could have made. It is trite law that a claim based merely on legitimate expectation without anything more, cannot *ipso facto* give a right.

26. In the present case, the change of policy of the Government from the earlier decentralized process of issuance of tenders by each of the jails involved to that of a centralized tendering process (Zone wise) for all the jails falling in each of such zones, brought into operation from the FY 2024-25 has been duly explained by the respondent authorities in their affidavit. Considering the public

importance involved, as well as the welfare of the jail inmates, such change of the process of tendering cannot be said to be unreasonable. It is true that on the centralized process of tendering being introduced and the intending tenderer now being required to supply the dietary articles in various groups to all the jails so involved, the value of such supply would stand increased substantially, compared to the value involved when such supply was confined to the individual jails. The restrictions now coming into operation, preventing the petitioners, herein, from participating in the tender process, cannot be held to be an unreasonable restriction. This Court, while examining the tender conditions has to examine the same from the stand view of the public at large and not from the stand view of the interest of persons upon whom such restriction now operates. The restrictions coming into being in terms of the impugned clauses of the NIT dated 06.03.2024, cannot be said to be unreasonable, merely, because, it operates harshly insofar as, it concerns the petitioners, herein. Given the object sought to be achieved by re-introduction of the centralized tender process and also considering the contention of the respondent authorities that the value as assigned against each of the groups under the provisions of Clause-4 was so assigned so as to ensure that the supplier so settled with the work in question would be financially sound facilitating uninterrupted supply of the essential articles involved, the said condition in the tender cannot be termed to be arbitrary.

27. The Hon'ble Supreme Court in the case of **Meerut Development Authority** in Paragraph-17 had concluded as follows:-

“17. A tender is an offer. It is something which invites and is communicated to notify acceptance. Broadly stated it must be unconditional; must be in the proper form, the person by whom tender is made must be able to and willing to perform his obligations. The terms of the invitation to tender cannot be open to judicial scrutiny because the invitation to tender is in the realm of contract. However, a limited judicial

review may be available in cases where it is established that the terms of the invitation to tender were so tailor made to suit the convenience of any particular person with a view to eliminate all others from participating in the bidding process. The bidders participating in the tender process have no other right except the right to equality and fair treatment in the matter of evaluation of competitive bids offered by interested persons in response to notice inviting tenders in a transparent manner and free from hidden agenda. One cannot challenge the terms and conditions of the tender except on the above stated ground, the reason being the terms of the invitation to tender are in the realm of the contract. No bidder is entitled as a matter of right to insist the Authority inviting tenders to enter into further negotiations unless the terms and conditions of notice so provided for such negotiations.”

28. The Hon’ble Supreme Court in the case of **Michigan Rubber (India) Limited Vs. State of Karnataka and Ors.**, reported in **(2012) 8 Supreme Court Cases 216**, on a consideration of its earlier decisions, concluded as follows:-

“23. From the above decisions, the following principles emerge:

(a) The basic requirement of Article 14 is fairness in action by the State, and non-arbitrariness in essence and substance is the heartbeat of fair play. These actions are amenable to the judicial review only to the extent that the State must act validly for a discernible reason and not whimsically for any ulterior purpose. If the State acts within the bounds of reasonableness, it would be legitimate to take into consideration the national priorities;

(b) Fixation of a value of the tender is entirely within the purview of the executive and the Courts hardly have any role to play in this process except for striking down such action of the executive as is proved to be arbitrary or unreasonable. If the Government acts in conformity with

certain healthy standards and norms such as awarding of contracts by inviting tenders, in those circumstances, the interference by courts is very limited;

(c) In the matter of formulating conditions of a tender document and awarding a contract, greater latitude is required to be conceded to the State authorities unless the action of the tendering authority is found to be malicious and a misuse of its statutory powers, interference by courts is not warranted;

(d) Certain preconditions or qualifications for tenders have to be laid down to ensure that the contractor has the capacity and the resources to successfully execute the work; and

(e) If the State or its instrumentalities act reasonably, fairly and in public interest in awarding contract, here again, interference by court is very restrictive since no person can claim a fundamental right to carry on business with the Government.

24. *Therefore, a court before interfering in tender or contractual matters, in exercise of power of judicial review, should pose to itself the following questions:*

(i) Whether the process adopted or decision made by the authority is malafide or intended to favour someone; or whether the process adopted or decision made is so arbitrary and irrational that the court can say: "the decision is such that no responsible authority acting reasonably and in accordance with relevant law could have reached"? and

(ii) Whether the public interest is affected?

If the answers to the above questions are in the negative, then there should be no interference under Article 226.

29. Applying the decisions of the Hon'ble Supreme Court, in the above noted cases to the facts of the present, it is to be noted that the value as assigned to the various groups in Clause-4 of the said Additional Terms and Conditions of the

NIT dated 06.03.2024, has been explained by the authorities and such explanation is found by this Court, to be reasonable. The prescription of the eligibility criterias in Clause 4 & 44, considering the change in policy so coming into force w.e.f., the FY 2024-25, pertaining to the manner of tendering for supply of dietary and non-dietary articles to the jails, this Court is of the considered view that the prescriptions so made in the above noted clauses of the NIT dated 06.03.2024, cannot be held to be arbitrary in any manner. Accordingly, this Court is of the considered view that the tender conditions as incorporated in Clause-4 & 44, cannot be said to be arbitrary, malafide and or tailor made, inasmuch as, appropriate justification has been so advanced by the respondent authorities for incorporation of such tender conditions.

30. It is also to be noted at this stage that it is a settled position of law that certain pre-conditions or qualifications for tenders have to be laid down to ensure that the contractors so selected, has the capacity and resources to successfully execute the work.

31. In view of the decisions of the Hon'ble Supreme Court noted herein above and the conclusions so drawn in the matter by this Court in the preceding paragraphs, it is to be concluded that the contentions raised by the petitioner in the matter would not merit acceptance. Accordingly, this Court is of the considered view that the tender conditions, more particularly, those as framed in clause-4 & 44 of the "Additional Terms and Conditions" of the NIT dated 06.03.2024, is to be held to be reasonable.

32. This Court had vide the order dated 03.04.2024, in the interim, directed the respondents to allow the petitioners to submit their tenders in pursuance to the NIT dated 06.03.2024 and had restrained the respondents not to open the financial bids without prior permission from this Court.

33. In view of the conclusions as reached herein above, the consequential step

taken by the petitioners and the respondent authorities in pursuance to the said interim direction in the considered view of this Court, would not mandate further consideration.

34. In view of the conclusions drawn herein above by this Court, on the issues arising in the present proceedings, it is to be held that the reliance placed by the learned counsel of the petitioner on the decision of the Hon'ble Supreme Court in the case of **International Trading Co. (supra)** would not advance the case of the petitioners.

35. Ms. U. Das, learned Addl. Senior Government Advocate had placed on record the communication dated 24.09.2024, received from the Inspector General of Prisons, Assam, wherein it was contended as follows:-

“With reference to the subject cited above, I would like to inform you that with regard to the NIT for dietary articles in Group-A and Group-B for the jails of Zone 6, there is single bidder participation in both the groups.

As such, the Prison Headquarters intends to go for re-tendering process for the Zone 6 group of jails to invite better participation as per extant norms, subject to the outcome of the case and order of the Hon'ble Gauhati High Court.

This is for favour of your kind information and necessary action.”

36. The said aspect of the matter is the one which is to be so decided by the tendering authority as per the law and this Court, would not pass any direction in this connection. This Court has only, in the present proceeding, considered the challenge so presented by the petitioner, herein, to the provisions of Clause 4 & 44 of the Additional Terms and Conditions of the NIT dated 06.03.2024 and the present order is restricted to the said aspect only. However, it is observed that the

tendering authority are at liberty to take such further steps in the matter as highlighted in the said communication dated 24.09.2024, strictly, in accordance with law.

37. In view of the above position, the writ petition is held to be devoid of any merit and accordingly, the same stands dismissed.

38. The interim order passed, vide order dated 03.04.2024 stands vacated.

JUDGE

Comparing Assistant