



Form No. J (2)

**IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble Justice Debangsu Basak

And

The Hon'ble Justice Md. Shabbar Rashidi

MAT 1569 of 2025

IA NO: CAN/1/2025

Bishwanath Ghosh & Ors.

vs.

The State of West Bengal & Ors.

For the Appellants : Mr. Tanmay Chattopadhyay, Advocate

For the State : Mr. Biswabrata Basu Mullick, Ld. A.G.P
Mr. K. M. Hossain, Advocate

Heard & Judgment on : 12.09.2025.

Debangsu Basak, J.:-

1. Appeal is at the behest of the writ petitioners and directed against the order dated September 9, 2025 passed in WPA No.21191 of 2025.
2. Appellants seek to participate in two tender processes simultaneously.
3. Learned advocate appearing for the appellants submits that, State initiated a tender process for ICDS project level storing of food stuff and other articles by memo dated August 6, 2025. State also issued another notice inviting tender dated August 6, 2025 for project level storing of food stuff and other articles



under ICDS programme. He refers to Clause D(2) of the notice inviting tender dated August 6, 2025 of ICDS project level storing of food stuff and other articles. He submits that, same clause is there for the other tender. He submits that, by reason of such clause, right to carry on business which a fundamental right under the Constitution, is sought to be curtailed unjustifiably by the respondent authorities.

4. Learned advocate appearing for the appellants submits that, appellants raised objection with regard thereto. Objections were heard by the authorities and an order was passed. He submits that, the authorities acted with material irregularity in rejecting the contentions of the appellants.
5. Learned advocate appearing for the appellants refers to the impugned order. He submits that, learned Single Judge, did not appreciate that, the right of the appellants to carry on business stands curtailed.
6. State authorities are represented.
7. Two tender processes are assailed at the behest of the appellants. Both are dated August 6, 2025. One relates to ICDS project level storing of food stuff and other articles while the other tender relates to project level storing of food stuff and other articles under ICDS programme.
8. Both contain same clause which according to the appellants which offends the right to carry on business. It is apposite to set out such clause which is as follows:-

“D) Eligibility criteria for participation in the tender:



2. The Tenderer/Bidder competing for Project Level Carrying shall not take part in Project Level Storing or District Level Carrying.”

9. The eligibility criteria prescribed in the two tender process prevents a tenderer if such tenderer is competing for project level carrying from taking part in the project level storing or district level carrying. In the facts of the present case as the two tenders are simultaneous in nature, if a tenderer is allowed to participate in both the tender processes and becomes successful in both then the State will face difficulty. By virtue of the tender condition the tenderer will be required to give up one.
10. In the first blush, it might seem that there is some substance in the contention of the appellants that right to carry on business is being unreasonably restricted by the State authorities. However, if, the two tender process are appreciated in the perspective in which, they were issued then, the restriction does not seem unreasonable.
11. State authorities intend to secure suppliers for ICDS project level storing of food stuff and other articles under ICDS programme by the other tender. In view of the State if, a successful tenderer obtains the tender in both the tender processes then, such tenderer will not be appropriately placed to discharge their obligation in respect of both the tenders.
12. The view taken by the State is a plausible view. As a Writ Court we are not to sit in appeal over the decision taken by the authority. The imposition in both the two tenders will be simultaneously applied in respect of all tenderers. There



is no material to suggest that, any of the appellants stands discriminated against by the clause of the tenders spoken of.

13. In such circumstances, we find no reason to interfere in the present appeal.

14. M.A.T. 1569 of 2025 alongwith connected application are **dismissed** without any order as to costs.

(Debangsu Basak, J.)

15. I agree.

(Md. Shabbar Rashidi, J.)