

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

Present:

The Hon'ble Justice Krishna Rao

WPA No. 7776 of 2026

City Mall Vikash Private Limited & Anr.

Versus

The Union of India and Others

Mr. Krishnaraj Thaker, Sr. Adv.

Ms. Reshmi Ghosh

Mr. Rohit Banerjee

Mr. Sayan Sengupta

.....For the petitioners.

Mr. Ajit Kumar Mishra

Mr. Sovan Mukherjee

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

Mr. Barnik Ghosh

.....For the M.S.T.C. Ltd.

Mr. Kishore Dutta, Ld. A.G.

Mr. Snehashis Sen

Mr. Ajit Kumar Mishra

Mr. Abhishek Banerjee

Mr. Debdatta Mukhopadhyay

.....For the respondent no. 3.

Mr. Abhrajit Mitra, Sr. Adv.

Mr. Deepan Kumar Sarkar

Mr. Yash Singhi

Mr. Sourav Bhagat

Mr. Jishnujit Roy

Mr. Biswajit Roy

Ms. Deveshi Bose

.....For the respondent no. 4.

Hearing Concluded On : 20.04.2026

Judgment on : 23.04.2026

Krishna Rao, J.:

1. The petitioners have filed the present writ petition praying for a direction upon the respondents to permit the petitioner No. 1 Company and other bidders to participate in the tender auction being NIT No. SMP/KDS/LND/131-2025 dated 5th November, 2025 from the stage of bidding as at 10.40 p.m. The respondent no. 3 has issued the above mentioned tender notice dated 5th November, 2025, inviting bids for allotment of land inside CME compound at plot No. 130/25(A), situated at 8, Garden Reach Road, Kolkata, on long term lease of 30 years, on 'as is where is basis', without renewal option, against payment on annual rent/ upfront basis.
2. The petitioners have participated in the said tender on 24th March, 2026, upon evaluation of the techno-commercial bid, the petitioners

were declared techno-commercially qualified and was invited to participate in the forward e-auction stage conducted through the MSTC e-auction portal. The said auction was scheduled to start at 12.00 noon on 26th March, 2026 and accordingly, the petitioners have logged into the MSTC e-auction portal on the scheduled date and time and participated in the live bidding process.

- 3.** Mr. Krishnaraj Thaker, Learned Senior Advocate appearing for the petitioners, submits that during the bidding process through online mode suddenly at around 10:40 p.m. after almost 10 hours 40 minutes of active participation by the petitioners, the computer system of the petitioners' suffers a technical glitch. He submits that due to such sudden disconnection and technical malfunction, the petitioners were automatically logged out of the MSTC e-auction portal, due to which the petitioners were unable to participate in the remaining portion of the bidding process.
- 4.** Mr. Thaker submits that immediately the petitioners attempts to reconnect the internet and log back to the MSTC e-auction portal in order to continue participating in the bidding process but due to the limited time remaining in the auction window and the technical disruption experienced, the petitioners were unable to successfully re-enter the live bidding process within the stipulated period of time.
- 5.** Mr. Thaker submits that immediately the petitioners have communicated through e-mail to the respondents regarding the

technical difficulties faced by the petitioners during the live auction and requested the respondents to verify the system logs available with the portal or the concerned technical agency conducting the auction in order to ascertain the occurrence of such technical glitch.

- 6.** Mr. Thaker submits that the petitioners requested the respondent authorities to consider for rescheduling the auction by extending the bidding time or otherwise providing an opportunity to the petitioners to participate further in the bidding process. He submits that the petitioners have submitted reminder to the respondent authorities on 27th March, 2026, explaining in details the circumstances leading to the disconnection from the MSTC portal and the inability of the petitioners to continue participation in the auction process despite the petitioners is having the financial capability to submit higher bids.
- 7.** Mr. Kishore Dutta, Learned Advocate General appearing for the respondent no. 3 submits that due to technical glitch, the petitioners were unable to participate in the live e-auction bid after 10:40 P.M. and if the petitioners are intending to pay the higher bid amount then the private respondent and the respondent no. 3 will consider the same in accordance with law.
- 8.** Mr. Barnik Ghosh, Learned Advocate appearing for the M.S.T.C submits that the bidding portal was continued till 22:41:34 on 26th March, 2026 and the added respondent has quoted the bid amount of Rs. 4,45,10,628/- wherein the petitioners have lastly participated in

the live e-auction bid at 22:38:15 and quoted Rs. 4,44,99,626/- and thereafter the petitioners have not participated in the live e-auction bid. He submits that there is no technical glitch on the part of the MSTC. The respondent no. 2 referred paragraphs 9 of the writ petition and submits that it is the admitted case of the petitioners that at 10:40 p.m., the petitioners' computer system suffered a technical glitch and as such the petitioners cannot pray for allowing the petitioners to participate in the tender process further.

9. Mr. Ghosh submits that on 30th March, 2026, reply was sent to the petitioners clarifying the position that on 22:41:34 hours, the final bid of the auction was placed. At 22:45 hours, the connection of the petitioners' was restored, the bidding window was remain open for over four minutes i.e. up till 22.49.34 hours but the petitioners have not placed any bid during the said four minutes when the bidding window of the petitioners was open. He further submits that on 22:49:34 hours, the auction was officially closed.
10. Mr. Ghosh submits that though there was a technical glitch in the system of the petitioners but at 22.45 hours, the connection of the petitioners was resorted and remaining 4 minutes to participate in the bid as the window was open till 22:49:34 hours but the petitioners failed to put the bid amount within the said four minutes. Mr. Ghosh has relied upon the judgment in the case of ***Maharashtra Housing Development Authority vs. Shapoorji Pallonji & Co. Pvt. Ltd. & Ors.*** reported in ***(2018) 3 SCC 13*** and submits that in the absence of

any technical glitch at the site of the MSTC, the petitioners cannot claim any benefit for allowing the petitioners to participate in the said tender any further.

11. Mr. Ghosh has further relied upon the judgment in the case of **Jindal Steel & Power Ltd. & Anr. Vs. Union of India & Ors.** reported in **2023 SCC OnLine Del 4401** and submits that the Hon'ble Division Bench of the Delhi High Court held that there was no glitch on the portal of the MSTC, on which e-auctions were conducted, it would be improper to set aside the result of the present e-auction only on the ground that the petitioner was prepared to give a higher bid. He has further relied upon the judgment in the case of **Deep Blue Xpress Ltd. vs. Municipal Corporation of Delhi**, reported in **2023 SCC OnLine Del 5493** and submits that if there is no technical glitch on the bidding portal, no relief can be granted to the petitioner.

12. Mr. Abhrajit Mitra, Learned Senior Advocate, appearing for the private respondent submits that the petitioners have admitted that there is no technical glitch on the part of the MSTC. He submits that in Clause 12 of the Techno-Commercial Bid, it is specified that the scheduled closing time of e-auction shall be automatically extended, in case a techno-commercially qualified bidder submits a bid within 8 minutes of scheduled closing time of e-auction. He submits that as per the case of the petitioners, there was a technical glitch in the computer of the petitioners at 10.40 p.m. but as per the report submitted by the MSTC, the bidding window of the petitioners re-opened at 22:45 hours and the

petitioners got further 4 minutes to participate in the said tender but the petitioners fails to place his bids upto 22:49:34 hours, accordingly, the bid was closed and now the petitioners cannot claim to allow the petitioners to participate in the tender process further.

13. Mr. Mitra has relied upon the judgment in the case of **Subodh Kumar Singh Rathour vs. Chief Executive Officer & Ors.** reported in **2024 SCC OnLine SC 1682** and submits that cancellation of a contract deprives a person of his very valuable rights and is a very drastic step, often due to significant investments having already been made by the parties involved during the subsistence of the contract. He submits that the added respondent has quoted the highest bid amount and also deposited the bid amounts with the respondents and as such if the bid proceeding is cancelled the private respondent will suffer irreparable loss.
14. Mr. Mitra has further relied upon the judgment in the case of **Bharat Earth Movers and Transporters vs. Eastern Coalfields Limited & Ors.** reported in **(2017) 1 WBLR (CAL) 22** and submits that tendering authority is not responsible for system failures in hardware/software internet connectivity at the end of the bidder.
15. Heard the Learned Counsel for the respective parties, perused the materials on record. The issues in the present writ petition :
 - i. *Whether even the computer system of the petitioners suffer technical glitch during e-auction process, the respondent nos. 2 and 3 shall be responsible for the same.*

ii. Whether if the respondent no. 3 has not finalized the tender of the private respondent, the petitioners can be given an opportunity to participate in the bid auction through online from the stage of the bidding at 10.40 p.m.

- 16.** It is admitted by the petitioners that suddenly around 10.40 P.M. after almost 10 hours 40 minutes of active participation by the petitioners, the petitioners' computer system suffered a technical glitch. Clause 16 of General Information to the bidders provides that neither SMP, Kolkata nor MSTC shall be responsible for any problem at the bidders' end like failure of electricity, disruption of internet connection, any trouble with bidder's PC etc., which may cause inconvenience or prevent the bidder from bidding in the e-tender-cum-e-auction.
- 17.** As per the bid history produced by the respondent no. 2, it reveals that the private respondent has participated in the last bid at 22:41:34 and put the bid amount of Rs. 44,51,0628/-. The respondent no. 2 also produced the e-mail dated 30th March, 2026 wherein it reveals that at 22:40 hours to 22:45 hours, the petitioners could not participate in the e-auction process due to computer glitch in the computer of the petitioners. The private respondent has quoted his final bid amount at 22:41:34 hours. The system of the petitioners restored at 22:45 hours and the bidding window remain open for about 4 minutes but even after the restoration of the connection of the petitioners at 22:45 hours, the petitioners have not placed their bid amount during this four

minutes and accordingly at 22:49:34 hours, the respondent no. 2 officially closed the e-bidding process.

- 18.** In the case of ***Maharashtra Housing Development Authority (supra)***, the Hon'ble Supreme Court has held that lack of any timely response of the first respondent when the system had failed to generate an acknowledgement of the bid documents in a situation where the first respondent claims to have pressed the freeze button, the generation of acknowledgment in respect of other bidders and in the absence of any glitch in the technology would strongly indicate that the said bid submitted by the first respondent was not a valid bid and the directions issued by the High Court in favour of the first respondent virtually conferred on the said respondent a second opportunity, which cannot be countenanced.
- 19.** In the case of ***Jindal Steel and Power Limited (supra)***, the Hon'ble Division Bench of the Delhi High Court held that if there is no glitch on the portal of MSTC, on which the e-auctions were being conducted it would be improper to set aside the result of e-auction only on the ground that the petitioner was not prepared to give a higher bid. In the case of ***Deep Blue Xpress Ltd. (supra)***, the Division Bench of the Delhi High Court has relied upon the judgment in the case of ***Jindal Steel and Power Limited (supra)***.
- 20.** This Court finds that it is the admitted case of the petitioners that the computer system of the petitioners suffered technical glitch at 10.40

hours due to which the petitioners could not participate in the further e-bid process but from the report submitted by the respondent no. 2, it reveals that at 22:45 hours, the system of the petitioners restored and the petitioners got the four minutes time to participate in the bid by putting the bid amount but the petitioners have not utilized the said four minutes and accordingly, 22:49:34 hours, the respondent no. 2 officially closed the auction. Clause 16 of the tender document also specified that neither the respondent no. 2 nor the respondent no. 3 shall be responsible for any problem at the bidder's end like failure of electricity, disruption of internet connection, any trouble with bidders PC etc., which may cause inconvenience to prevent the bidders from bidding in the e-tender of e-auction, thus this Court is of the view that there is no fault on the part of the respondents, accordingly, the issue no. 1 is decided against the petitioners.

- 21.** As regard to the issue no. 2, Clause 23 of the tender document provides that after finalization of the tender through e-tender or e-auction, the allotment letters will be made to the successful bidders by hard copy, and successful bidders shall be required to formally accept the terms and conditions of the allotment of the lease and remit requisite advance annual rent. The respondents have accepted the bid amount. It is upon the respondent no. 3 to issue allotment order to the private respondent or to take any further decision to cancel the tender process if the authorities found any difficulty to accept the bid amount of the private respondent. Mere the allotment letter is not issued to the private

respondent, will not create any right upon the petitioners to participate in the tender process from the stage at 10.40 p.m. on 26th March, 2026 along with other bidders, which is already closed at 22:49:34 hours.

- 22.** The petitioners have admitted that due to technical glitch in the computer of the petitioners, the petitioners could not participate in the e-tender process after 10:40 hours but this Court has already held that the petitioners failed to utilize the four minutes from 22:45 to 22:49 hours, thus the petitioners cannot claim that if the work order is not issued, the petitioners can be allowed to further participate in the bid process from the stage of the bidding at 10:40 p.m.
- 23.** Considering the above, this Court did not find any merit in the present writ petition. Accordingly, **WPA No. 7776 of 2026** is **dismissed**. No order as to costs.

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.)