HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

S.B. Civil Writ Petition No. 1904/2026

Jsw Cement Limited, Through Its Authorised Signatory, Jsw Centre, Opp. Mmrda Ground, Bandra Kurla Complex, Bandra (East), Mumabi 400051

----Petitioner

Versus

1. State Of Rajasthan, Through Its Principal Secretary, Mines And Petroleum, Jaipur 302005.
2. Directorate Of Mines And Geology, Through Its Director, Khanij Bhawan, Udaipur 313001.
3. Mstc Limited, Through Regional Managed, Mstc Rajasthan Regional Office, Room No. 114, First Floor, Bsnl Building, Lal Kothi, Behind Nagar Nigam, Jaipur, 302015.
4. Jk Cement Limited, Through Its Authorised Signatory, Kamla Tower, Kanpur, Uttar Pradesh 208001.

----Respondents

For Petitioner(s)	:	Mr. Vikas Balia, Sr. Advocate assisted by Ms. Adwaita Sharma Ms. Saloni Gupta Mr. Sahir Hussain Mr. Piyush Sharma
For Respondent(s)	:	Mr. M.S. Singhvi, Sr. Advocate assisted by Mr. Vinay Kothari Mr. Mahaveer Bishnoi, AAG with Mr. Gourav Bishnoi Mr. Mahesh Thanvi Ms. Pragya Thanvi Mr. Ayush Goyal Mr. Bhavyadeep Singh Gaur

HON'BLE MR. JUSTICE SANJEET PUROHIT

Judgment

1. Date of conclusion of arguments	**25.05.2026**
2. Date on which judgment was reserved	**25.05.2026**
3. Whether the full judgment or only the operative part is pronounced	**Full Judgment**
4. Date of pronouncement	**10.08.2026**

Reportable

Contents

I. Prayer :

1. Present writ petition has been preferred under Article 226 of the Constitution of India by petitioner - JSW Cement Limited, challenging declaration dated 17.12.2025 issued by respondent Nos. 1 and 2 (Annexure P-19), thereby declaring respondent No.4 - JK Cement Limited, as the preferred bidder for grant of mining lease in respect of the Kishanpura Block, located near Villages

Bhadana, Deh and Jindas, Tehsil and District Nagaur (hereinafter referred to as the "***Notified Limestone Block***").

Petitioner has also challenged communication dated 11.12.2025 (Annexure P-16) issued by Respondent No. 3 - MSTC Ltd., informing petitioner that no error or technical glitch had occurred on MSTC's portal during the e-auction process pertaining to Notified Limestone Block.

Petitioner has further prayed for a declaration that no technical glitch or error had occurred at its end during the e-auction process and sought a direction to respondents to conduct a re-auction or, in the alternative, resume the e-auction process in respect of the Notified Limestone Block from the stage at which alleged technical glitch/error is stated to have arisen.

II. <u>Facts</u> :

2. Learned Senior Counsel, Mr. Vikas Balia, appearing on behalf of petitioner, while assailing impugned actions, briefly narrated the facts of the case as under :

2.1 Respondent - Mining Department issued a Notice Inviting Bids *("NIB")* dated 16.10.2025 (Annexure P-1) for grant of mining leases through e-auction in respect of various mineral blocks, including Notified Limestone Block, to be conducted on the platform maintained by respondent No.3 - MSTC Limited.

2.2 Relevant clauses / conditions of Tender Document (Annexure P-3) pertinent to present writ petition are quoted below:

> ***"Important Information***
>
> ******
>
> ******
>
> *1.8 The issue of this Tender Document does not imply that the State Government is bound to select a Bidder or to*

*appoint the Preferred Bidder as Successful Bidder for the mineral block and **the State Government reserves the right to reject all or any of the Bidders or bids without assigning any reason whatsoever.***

1.9 Each Bidder shall bear all its costs associated with or relating to the preparation and submission of its bid and/or participation in the e-auction, including but not limited to preparation, copying, postage, delivery fees, expenses associated with any demonstrations or presentations which may be required by the State Government or any other costs incurred in connection with or relating to its bid.

1.10 This Tender Document is not transferable. The price paid by the Bidder for the Tender Document shall not be refunded.

1.11. …

1.12. Each Bidder shall be responsible for any problem at the Bidder's end like failure of electricity, loss of internet connection, any trouble with Bidder's computer etc. which may cause inconvenience or prevent the Bidder from bidding in e-auction.

8. Tender Process

8.1 Pursuant to sub-rule (4) of Rule 9 of the Auction Rules, the auction shall be an ascending forward online electronic auction and shall comprise of attempts of auction with each attempt of auction consisting of a first round of auction and a second round of auction. This block is being put up for first attempt of auction.

A. First round of e-auction

(a) In the first round, the Bidders shall be required to submit on or prior to 20th November, 2025 by 1300Hrs(IST) ("Bid Due Date"):

(i) the Technical Bid, comprising amongst others, documentary evidence to confirm eligibility as per provision of the act and rules made their under to participate in the auction, bid security and such other document and payments as may be specified in the tender document; and

(ii) Initial price offer, which shall be a percentage of Value of Mineral Despatched and must be equal to or greater than the Reserve Price as specified in Clause 9.

***The Technical Bid and the initial price offer must be submitted electronically as provided in Schedule III (Technical details regarding electronic auction).** In case of a conflict between documents submitted electronically and document submitted physically, the documents submitted physically shall prevail.*

Besides electronic submission, the duly executed original physical copies of documents, related to the Technical Bid, must be submitted personally prior to the Bid Due Date to the address mentioned in Clause 14.1.2, failing which the Technical Bid shall be deemed to be not received. It is clarified that only the Technical Bid is required to be submitted physically, and the Bidders must not submit the Initial rice Offer physically. In case *the Bidder submits the initial price offer physically, the Technical Bid and the Initial Price Offer will be summarily rejected.*

…

(c) Only those Bidders who are found to be eligible in accordance with the prescribed eligibility conditions and whose initial price offer is equal to or greater than the Reserve Price and whose bids meet the requirements under this Tender Document shall be declared as the "Technically Qualified Bidders".

(d) The highest initial price offer amongst the Technically Qualified Bidders shall be the floor price for the second round of online electronic auction ("Floor Price").

(e) The Technically Qualified Bidders shall be ranked on the basis of the descending initial price offer submitted by them. On the basis of such ranking the Technically Qualified Bidders, holding first fifty per cent of the ranks (with any fraction rounded off to higher integer) or the top five Technically Qualified Bidders, whichever is higher, shall be considered to be qualified for participating in the second round of online electronic auction (the "Qualified Bidders"). Intimation shall be restricted only to the Concerned Qualified Bidders.

Provided that where the total number of technically qualified bidders is less than three, then no technically qualified bidder shall be considered to be qualified bidder and the first attempt of e- auction process shall be annulled:

…

9. Reserve Price

<u>9.1 The Reserve Price is 25.00% (Twenty Five Percent) of Value of Mineral Despatched.</u> *The "Value of Mineral Despatched" shall be an amount equal to the product of: -*

i. mineral despatched in a month; and

ii. sale price of the mineral (grade-wise and State-wise) as published by Indian Bureau of Mines for such month of despatch.

…

10. Declaration of Successful Bidder and grant of mining lease

<u>Pursuant to Rule 10 of the Auction Rules, the mining lease shall be granted to the Successful Bidder in the following manner:</u>

<u>10.1 Issuance of letter of intent:</u>

<u>A letter of intent shall be issued by the State Government to the Preferred Bidder upon payment of the first installment of the Upfront Payment which is INR 5,76,07,886.00 (Indian Rupees Five Crore Seventy Six Lakh Seven Thousand Eight Hundred Eighty Six Only).</u>

…

17.4 Appeals

<u>Any bidder or prospecting bidder is aggrieved that any decision, action or omission of the auctioning entity is in</u>

contravention to the provisions of applicable Act or the rules or guidelines issued there under, he may file an appeal to Additional Chief Secretary/Principle Secretary/Secretary, Mines & Petroleum, GOR, within a period of ten days, from the date of such decision or action, omission, as the case may be, clearly giving the specific ground or grounds on which he feels aggrieved.

Provided that after the declaration of a bidder as preferred / successful, the appeal may be filed only by a bidder who has participated in auctioning proceedings:

Provided further that in case an auctioning entity evaluates the technical bid before second round of auction, an appeal in this matter may be filed only by a bidder whose technical bid is found to be acceptable.

…

Schedule III: Technical Details Regarding Online Electronic Auction

*…**3. Preparation and Submission of Bid***

The complete process of bid submission will be divided into 2 stages as follows:

a. Stage 1: Technical Bid

This stage will comprise (i) online submission of the Technical Bid and the initial price offer; and (ii) offline submission of certain original documents as detailed below.

(i) Online submission of Technical Bid and initial price offer with supporting documents

This stage shall be open to all Bidders who have purchased the Tender Document(s) for the specific mineral block(s).

In this process, the Bidder, after logging in to the above stated website, will have to click on the link "click for Auction". In the next page, the Bidder shall have to go to the link "Stage 1 Technical cum IPO Submission". Thereafter, the bidder will have a bouquet under "My Menu" having 3 (three) sub-menus – "Bid Floor Manager", "Upload Documents" and "Attach Documents"."

2.3 According to learned counsel for petitioner, being eligible and desirous of participating in the e-auction process, petitioner registered itself on the MSTC portal, purchased the tender document and on 19.11.2025, submitted its technical bid along with all requisite documents, including bank guarantee amounting to INR 14,40,19,715/-, valid up to 18.07.2026. Thereafter, vide communication dated 01.12.2025 (Annexure P-6), petitioner was informed that it was one among three bidders who were found technically qualified to participate in e-auction of Notified Limestone Block, which was scheduled to be held on 10.12.2025 from 11:00 a.m. onwards.

2.4 Learned counsel for the petitioner submitted that the e-auction was to be conducted in accordance with the Tender Document, as per which the auction would have a scheduled start and close time to be displayed on the screen. However, if a revised price offer was received during the last eight minutes of preceding bid, the bidding window would automatically stand extended by a further period of eight minutes, so as to afford an equal opportunity to all participating bidders for bidding further. Said condition is reproduced hereinbelow for ready reference: -

> *"**b. Stage 2: Electronic Auction – Final Price Offer***
>
> *…*
>
> ***b. Conduct of e-auction***
>
> *E-auction is the process of inviting binding Final Price Offer(s) from Qualified Bidders through internet for the purpose of determination of the Preferred Bidder. During this process, the Qualified Bidder will be able to submit its Final Price Offer as many times as it wishes against the same mineral block. The Qualified Bidder will remain anonymous to other Qualified Bidders participating in the electronic auction process as well as to MSTC / State Government. The Qualified Bidder will be able to see the prevailing highest Final Price Offer against the mineral block, but the name of the highest Qualified Bidder at any point of time will not be displayed. The Qualified Bidder shall have to put its Final Price Offer over and above the displayed highest bid by a minimum increment of [0.05%] to become the highest Qualified -Bidder. The electronic auction process will have a scheduled start and close time which will be displayed on screen. A Qualified Bidder will be able to put its Final Price Offer after the start of bid time and till the close time of electronic auction. The current server time (IST) will also be displayed on the screen.* ***<u>In the event a Final Price Offer is received during the last 8 (Eight)] minutes before the scheduled close time of electronic auction, the close time of electronic</u>***

<u>auction will be automatically extended by 8 (Eight)] minutes from the last received bid time to give equal opportunity to all other Qualified Bidders. This process of auto extension will continue till no Final Price Offer is received during a period of 8 (Eight)minutes</u>.”

2.5 It is submitted that the e-auction commenced at 11:00 a.m. on 10.12.2025 and continued throughout the day with active participation from petitioner, which submitted more than 40 bids in response to and corresponding with the bids placed by Respondent No. 4.

2.6 Learned counsel for the petitioner submitted that, during the closing stages of the auction, petitioner submitted a bid of 40.00% at about 19:27 hours. Shortly thereafter, respondent No.4 enhanced its bid to 40.05%, thereby triggering the eight-minute extension of the bidding window in terms of the Tender Document.

It is petitioner's case that, within the extended bidding period, it attempted to revise its offer by submitting a bid of 40.10%. Upon entering the revised bid, the portal acknowledged receipt of the bid and thereafter proceeded to the stage of Digital Signature Certificate (DSC) authentication. However, before the authentication process could be completed, the portal allegedly became unresponsive and failed to display the usual confirmation indicating successful submission of the bid. Consequently, petitioner's revised bid of 40.10% was not recorded before the auction concluded.

2.7 It is further asserted that, in an attempt to complete the bidding process within the remaining time, petitioner sought to access the portal through another system. However, the portal did not permit fresh login as petitioner was already logged in through an active session. Learned Senior Counsel stated that during 19:35:00 to 19:40:32 hours, MSTC portal has recorded five login attempts by petitioner, however, bid submitted by petitioner could not be finally submitted due to technical glitch / error at the end of MSTC.

2.8 It is submitted that immediately upon the closing of the bidding window, petitioner attempted to contact the Regional Office of MSTC. It is stated that phone calls made at 19:40 hours and 19:42 hours remained unanswered, however, petitioner finally succeeded in establishing telephonic contact with Manager, MSTC Regional Office, at about 19:43 hours. Upon being apprised of the technical difficulty encountered during the bidding process, it was advised to petitioner to lodge a written complaint.

2.9 Acting upon aforesaid instructions, petitioner sent emails to respondent No. 3 at 8:32 p.m. and 8.59 p.m., narrating the sequence of events that had unfolded during the concluding stage of the auction. Along with the emails, petitioner enclosed screenshots, the bidding history and video recordings capturing the events as they are said to have transpired during the auction.

2.10 It is submitted that Respondent No. 3 answered said e-mails stating that the screenshots enclosed therein were taken after the auction ended and the video sent was unclear. In response thereto, petitioner sent another e-mail at 13:49 hours while enclosing documents demonstrating sequential events with snapshots, video taken during bidding period and screenshot showing the time of the video.

2.11 Learned counsel stated that Respondent No. 3, vide another e-mail dated 11.12.2025 (Annexure P-16), informed petitioner that its technical team had examined the matter and found no error in the functioning of the MSTC platform during the relevant period.

2.12 Thereafter, respondent No. 2 proceeded to issue declaration dated 17.12.2025 (Annexure P-19) declaring Respondent No. 4 as preferred bidder for the Notified Limestone Block with recorded highest bid of 40.05%.

2.13 Said response of MSTC dated 11.12.2025 and aforesaid declaration dated 17.12.2025 declaring Respondent No. 4 as preferred bidder are impugned in present writ petition.

III. <u>Submissions</u> :

A. <u>Submissions on behalf of the Petitioner</u> :

3. Learned Senior Counsel, Mr. Vikas Balia, appearing on behalf of petitioner, submitted that petitioner was precluded from submitting its revised bid during the extended bidding window solely on account of technical malfunction occurring on the platform maintained by respondent No.3, and the same prejudiced the rights of petitioner and deprived it of an equal and level playing field to participate in the process. It was contended that the subsequent declaration of respondent No.4 as preferred bidder, without properly addressing petitioner's grievance, is arbitrary, unreasonable and violative of Articles 14 and 19 of the Constitution.

3.1 Learned Senior Counsel further submitted that petitioner pursued the bid process with utmost *bona fides* and promptitude, by immediately reporting the technical malfunction to respondent No.3, supported by contemporaneous material; however, respondent authorities, without undertaking objective examination of the material, mechanically rejected petitioner's grievance without assigning any cogent reasons.

3.2 Furthermore, it was argued that the conclusion communicated through impugned communication was unsupported by reasons and without disclosing the technical basis for the same, was itself arbitrary and violative of Article 14 of the Constitution.

3.3 It was further contended that respondents acted in breach of the principles of natural justice by declining petitioner's request for an in-person meeting and by withholding the server logs and other technical material, before rejecting petitioner's grievance.

3.4 Learned Senior Counsel submitted that the impugned action defeats the object underlying the Mineral (Auction) Rules, 2015 and the Tender Document. It was argued that the automatic extension of the bidding window was intended to maximise competition and to secure the highest possible value for the public resource being auctioned. However, by proceeding to declare respondent no. 4 as the preferred bidder based on its lower bid of 40.05%, despite being informed that petitioner had been prevented from submitting a higher bid on account of circumstances beyond its control, respondents acted contrary to the governing framework and frustrated the object sought to be achieved by the e-auction.

3.5 Learned counsel further submitted that the impugned action has also resulted in substantial loss to the public exchequer by depriving the State of the opportunity to secure a higher premium. It was argued that constitutional courts have, in comparable situations involving technical glitches during e-auctions, directed resumption or continuation of the auction process to preserve fairness, transparency and public interest.

3.6 Learned counsel, therefore, urged that declaration dated 17.12.2025 declaring respondent No.4 as the preferred bidder be set aside and respondents be directed to resume the e-auction from the stage at which petitioner encountered the technical glitch or, in the alternative, to conduct the auction afresh. It was also stated that, in the event the auction is resumed, petitioner undertakes to commence the bidding at 50%.

3.7 In support of its contentions, learned Senior Counsel placed reliance upon: -

Sr. No.	Title/Case No	Court
1.	Sigma Minerals Limited v. State of Rajasthan & Ors. (S.B. Civil Writ Petition No. 111/2020)	Rajasthan High Court, Jodhpur Bench
2.	JSW Cement Ltd. v. State of Rajasthan Reported in 2018 SCC OnLine Raj 1313	Rajasthan High Court, Jodhpur Bench
3.	SMO Ferror Alloys Pvt. Ltd. v. State of Rajasthan & Ors. Reported in 2023 SCC OnLine Raj 5557	Rajasthan High Court, Jodhpur Bench
4.	Vedanta Ltd. v. State of Goa, 2025 SCC OnLine Bom 1831	High Court of Bombay at Goa
5.	Imsairam Steels & Alloys Pvt. Ltd. v. Director of Mines & Geology, BBSR & Ors. Reported in 2024 9 SCC 697	Hon’ble Supreme Court
6.	Ceigall India Ltd. V. NHAI & Anr. Reported in 2025 SCC OnLine Del 5424	Delhi High Court
7.	M/s Ambuja Cement Ltd. v. JSW Cement Ltd. (D.B. Spl Appl. Writ No. 1070/2018; order dated 30.08.2018)	Rajasthan High Court, Jodhpur Bench
8.	M/s Ambuja Cement Ltd. v. JSW Cement Ltd. (D.B. Spl Appl. Writ No. 1070/2018; order dated 10.12.2018)	Rajasthan High Court, Jodhpur Bench
9.	Karix Mobile Pvt. Ltd. v. UOI W.P.© 253/2025 Order dated 03.02.025	Delhi High Court
10.	Anandam Minerals Pvt. Ltd. v. UOI W.P (CP) 8374/2025, order dated 06.06.2025	Delhi High Court
11.	Ambuja Cement Ltd. v. State of Rajasthan & Ors. (D.B. Spl Appl. Writ No. 841/2017	Rajasthan High Court, Jodhpur

		Bench
12.	Dalpat Singh Chudawat v. UOI (SB. Civil Writ Petition No. 5211/2021)	High Court of Rajasthan, Jodhpur Bench
13.	Emerson Process Management (India) Pvt. Ltd. v. Indian Oil Corporation Ltd. (W.P. No. 20813/2025 order dated 12.6.2025(	High Court of Madras
14.	SMO Ferro Alloys Pvt. Ltd. v. State of Rajasthan & Ors. (S.B. Civil Writ Petition No. 9814/2023, order dated 05.07.2023)	Rajasthan High Court, Jodhpur Bench
15.	Kundan Gold Mines Pvt. Ltd. v. State of Maharashtra (W.P. No. 8249/2025)	High Court of Bombay, Nagpur Bench
16.	Rajasthan Housing Board & Anr. v. G.S. Investments & Anr. Reported in 2007 1 SCC 477	Hon'ble Supreme Court
17.	Tata Cellular v. UOI reported in 1994 6 SCC 651	Hon'ble Supreme Court
18.	Kasturi Lal Lakshmi Reddy v. State of Jammu & Kashmir & Ar. Reported in 1980 4 SCC 1	Hon'ble Supreme Court
19.	State of Orissa v. Harinarayan Jaiswal, reported in 1972 2 SCC 36	Hon'ble Supreme Court
20.	Vet India Pharmaceuticals Ltd. v. State of UP reported in 2021 1 SCC 804	Hon'ble Supreme Court
21.	Mohd. Usman v. State of Rajasthan reported in 1984 SCC OnLine Raj 11	Rajasthan High Court
22.	Tukaram Kama Joshi v. MIDC reported in 2013 1 SCC 353	Hon'ble Supreme Court
23.	Unitech Ltd. v. Telanagana State Industrial Infrastructure Co. reported in 2021 16 SCC 35	Hon'ble Supreme Court
24.	Alkhnanda Stone Crusher v. State of Madhya Pradesh, WP No. 23858/2023	High Court of MP, Indore Bench

B. Submissions on behalf of Respondent Nos. 1 and 2 :

4. Learned Additional Advocate General, Mr. Mahaveer Bishnoi, appearing on behalf of respondent Nos. 1 and 2, at the outset raised preliminary objections regarding maintainability of present writ petition on the ground of availability of efficacious alternative remedy in the form of appeal / revision under the Mines and Minerals (Development and Regulation) Act, 1957 ("*MMDR Act*"). It was submitted that, without first availing the statutory remedy, petitioner has directly approached this Court while invoking its

extraordinary jurisdiction under Article 226 of the Constitution, which is against the settled position of law.

4.1 Learned counsel also submitted that the petition raises seriously disputed questions of fact, adjudication of which cannot be undertaken in exercise of powers under Article 226 of the Constitution.

4.2 On merits, learned AAG submitted that it has been reported by Respondent No. 3 that after having undertaken a detailed examination of the records, it stood established that no system-level malfunction occurred at the end of MSTC during the live bidding window for the e-auction of the Notified Limestone Block. It was submitted that the representations made and the supporting material submitted by petitioner were duly considered, clarifications were also sought from MSTC and furthermore, a section 65-B certificate has also been obtained, which clearly records that the e-auction platform of MSTC was functioning normally during the bidding window and after such consideration, no material has been found to indicate that the technical glitch alleged occurred at the end of MSTC.

4.3 Learned counsel further pointed out that several other auctions were running simultaneously on the same platform during the relevant period and no complaint whatsoever was received from any other corner concerning a technical glitch. This, according to learned counsel, also established that the auction platform remained fully operational throughout the relevant bidding window.

4.4 It was further contended that the scope of judicial review in tender / contractual matters is limited to instances of *mala fides* or arbitrariness. Learned counsel argued that the e-auction in question was conducted strictly in accordance with the governing statutory framework and petitioner was provided a fair and equal opportunity to participate in the bidding process. It was, therefore, urged that impugned decision does not suffer from any infirmity warranting interference by this Court.

4.5 In support of aforesaid submissions, learned counsel relied upon ***Jindal Steel and Power Ltd. & Anr. v. Union of India,* 2023 SCC OnLine Del 4401** and ***Jagdish Mandal v. State of Orissa*, (2007) 14 SCC 517**.

C. <u>Petitioner's Rebuttal to the Submissions advanced on behalf of Respondent Nos. 1 & 2</u> :

5. Refuting the preliminary objections raised on behalf of State respondents, learned Senior Counsel appearing for petitioner submitted that present writ petition is maintainable notwithstanding the availability of an alternative remedy, since the challenge is founded upon allegations of violation of petitioner's fundamental rights, breach of principles of natural justice and failure of respondents to conduct a fair inquiry into petitioner's grievances. It was further argued that mere existence of an alternative remedy does not preclude exercise of writ jurisdiction.

5.1 Learned counsel for the petitioner further submitted that objection regarding disputed questions of fact is equally misconceived. It was argued that the central controversy in present case is technical in nature and is capable of objective determination through examination of electronic records by independent technical/forensic committee. According to learned counsel, in similar cases involving technical disputes, Courts have directed examination by independent expert bodies or committees.

5.2 Learned Senior Counsel for the petitioner further submitted that constitutional courts have exercised jurisdiction under Article 226 in matters involving technical glitches in e-auctions by directing re-auctions or independent technical examination of the bidding process.

5.3 On merits, learned counsel submitted that respondents have merely asserted that petitioner's grievance was examined, without disclosing either the authority that undertook such examination or the technical material on the basis of which the conclusion (that no error occurred on MSTC platform) was reached. It was argued that such vague conclusions do not satisfy the constitutional obligation of the State to maintain transparency and fairness in matters pertaining to auction of public resources.

5.4 Learned Senior Counsel further contended that respondents have miscast petitioner's case. According to learned counsel, the absence of a platform-wide malfunction or the fact that other auctions proceeded normally does not exclude the possibility of a session-specific failure affecting an individual bidder. It was, therefore, submitted that neither Section 65B Certificate nor the conduct of parallel auctions answers petitioner's grievance.

5.5 It was argued that the dispute can only be resolved through an independent technical examination of the relevant electronic records. It was further submitted that allocation of mining leases by the State involves public assets and is strictly subject to constitutional requirements of fairness and transparency.

Therefore, present controversy falls within the scope of judicial review under Article 226 of the Constitution.

D. <u>Submissions on behalf of Respondent No. 3</u> :

6. Learned Senior Panel Counsel, Mr. Mahesh Thanvi assisted by Ms. Pragya Thanvi, appearing on behalf of respondent No. 3 - MSTC, opposed the writ petition and submitted that no technical glitch, as alleged by petitioner, occurred on the e-auction platform maintained by MSTC during the live bidding window.

6.1 Learned counsel submitted that several other auctions were running simultaneously on the same platform during the relevant period and no complaint of any technical glitch was received from any other participant. According to learned counsel, had there been any server-side malfunction, all users accessing the platform would have been similarly affected.

6.2 Learned counsel relied upon the Technical Report annexed with the reply and submitted that the same conclusively demonstrates that no fault was attributable to MSTC's platform. It is recorded therein that petitioner's system repeatedly switched between two different IP addresses during the relevant period, showing that there was network instability at petitioner's end. The report identifies the interruption at the stage of DSC authentication and attributes the unsuccessful submission of petitioner's revised bid to circumstances operating within petitioner's own technical environment. Learned counsel submitted that petitioner's DSC was ultimately authenticated at 19:40:42 hours, showing that MSTC platform was functioning normally and the problem faced by petitioner resolved when petitioner's own local network environment became stable.

6.3 Learned counsel also relied upon controlled simulations conducted during the technical audit which demonstrate that the error page displayed to petitioner can occur on account of instability in client-side network conditions.

6.4 Learned Senior Counsel further submitted that, as per Clause 1.12 of the Tender Document, every bidder is solely responsible for ensuring adequate internet connectivity, compatible hardware and other technical requirements necessary for participation in the auction, and, therefore, any interruption arising from bidder's own technical environment cannot be attributed to MSTC or the State.

6.5 Learned counsel further disputed the evidentiary value of material relied upon by petitioner. It was submitted that the screenshots relied upon by petitioner were captured after the auction had already closed, and that the video clips shared by petitioner were of poor quality. It was further stated that the reliance sought to be placed by petitioner upon its network logs to show network stability in its technical environment is misplaced. It was contended that such logs only show connectivity up to petitioner’s own firewall and cannot prove that a bid packet successfully left petitioner’s network and reached the MSTC server during the extension window.

6.6 Learned counsel further submitted that petitioner's grievance was duly examined and responded to by way of email communications and that no violation of the principles of natural justice is made out. According to learned counsel, where the issue pertains to objective technical data capable of verification from electronic records, no personal hearing is required once the technical audit has been completed and its conclusions have been communicated to concerned party.

6.7 Learned counsel submitted that the e-auction was conducted strictly in accordance with the governing statutory framework and the Tender Document. It was further contended that petitioner has failed to produce any material demonstrating a platform-side malfunction or any circumstance warranting rejection of the Technical Report or constitution of an independent expert committee. According to learned counsel, in these circumstances, interference with the finality of validly concluded auction proceedings would be against public interest as well as prejudice the vested rights acquired by respondent No. 4. It was therefore urged that no case for interference by this Court in exercise of its writ jurisdiction is made out.

6.8 Learned counsel for Respondent No. 3 has relied upon following judgments: -

Sr. No.	Title/Case No.	Court
1.	Jindal Steel & Power Ltd. & Anr. v. UOI reported in 2023 DHC 5231 DB	Delhi High Court
2.	M/s Mythri Infrastructure & Mining India Pvt. Ltd. & Anr. v. State of Odisha & Ors. (W.P. No. 26548/2021)	High Court of Orissa at Cuttack
3.	City Mall Vikash Pvt. Ltd. & Anr. v. UOI (WPA No. 776/2026)	Calcutta High Court
4.	Maharashtra Housing Development Authority v. Shapoorji Pallonji & Co. Pvt. Ltd. (Civil Appeal No. 1836/2018) reported in 2018 3 SCC 13.	Hon'ble Supreme Court

E. <u>Petitioner's Rebuttal to the Submissions advanced on behalf of Respondent No. 3</u> :

7. Refuting the submissions advanced on behalf of respondent No.3, learned Senior Counsel for the petitioner submitted that the

Technical Report is founded upon electronic records generated by the very authority whose conduct is under question and was prepared by respondent No.3 itself without any oversight by an independent technical expert or forensic laboratory, therefore, the same cannot be treated as independent or conclusive determination of the controversy at hand.

7.1 Learned Senior counsel further submitted that respondent No.3 has incorrectly attributed the unsuccessful submission of petitioner's bid to instability in petitioner's network. Learned counsel submitted that petitioner's system operates two high-speed internet connections that function through an automatic load-balancing mechanism and network may be routed through either connection, showing normal functioning and not instability. It was contended that the same configuration had been in use throughout the auction and petitioner had successfully submitted several bids prior to the technical failure. Learned counsel further placed reliance upon reports prepared by petitioner's internet service providers to demonstrate that petitioner's connectivity was stable, operating with 100% availability, zero network breaks, and a very low bandwidth utilization range of only 3% to 4%.

7.2 Learned counsel further argued that the controlled simulations conducted by respondent No.3 were carried out under artificial conditions and merely demonstrate that a similar browser error can occur under restricted bandwidth conditions, but do not establish that such conditions existed at petitioner's end during the relevant bidding window.

7.3 Learned counsel also submitted that the fact that other auctions or other bidders continued to transact on the same platform during the relevant bidding window does not exclude the possibility of technical failure affecting only an individual participant.

7.4 Learned counsel disputed respondent's criticism of the technical material relied upon by petitioner. It was argued that respondent No. 3 failed to consider the material furnished by petitioner, demonstrating uninterrupted connectivity at its end, while preparing the Technical Report.

7.5 Learned counsel, therefore, urged that an independent technical committee or forensic laboratory be appointed to examine the relevant electronic records and objectively determine the cause of petitioner's failed bid submission.

F. <u>Sur-rejoinder by Respondent No.3</u> :

8. In reply to the rejoinder filed by petitioner, learned Counsel Ms. Pragya Thanvi representing respondent No.3 submitted that the Technical Report cannot be discarded merely because it has been prepared by respondent No.3. It was contended that respondent No.3, being the system operator responsible for maintaining the e-auction platform, is the most competent authority to undertake the technical analysis. Learned counsel submitted that the report has been prepared by an internal technical expert committee of MSTC on the basis of objective analysis of contemporaneous and system-generated electronic records. According to learned counsel, petitioner has failed to point out any factual error or infirmity in the findings of the report; it’s plea for constituting an independent committee is therefore, baseless and is merely an attempt to embark upon a

fishing and roving enquiry since it has failed to make a *prima facie* case in its favor.

8.1 Learned counsel further submitted that the simulation tests conducted as part of the technical analysis are controlled reproductions of observed behavior and are accepted methodologies for assessing network conditions and cannot be brushed aside as hypothetical or speculative.

8.2 Learned counsel also disputed the explanation given by petitioner regarding its dual internet service providers and automated load-balancing configuration. According to learned counsel, repeated switching between IP addresses is indicative of disrupted session continuity and secure DSC authentication. Learned counsel, therefore, submitted that the load-balancing explanation does not controvert the findings recorded in the report that there was instability in petitioner's network conditions which disrupted the second-level DSC authentication.

8.3 Learned counsel also contended that petitioner's session-specific theory is devoid of merit. It was contended that the MSTC's live bidding stage is the same for all participants and the fact that various auctions continued without interruption, including another auction pertaining to the same administrative region, establish that the interruption alleged was confined to petitioner's environment.

8.4 Learned counsel further submitted that successful DSC authentication depends upon several user-side parameters, including network stability, browser compatibility and continuity of the bidder's own technical environment, all of which remain beyond the control of the MSTC. It was further contended that the error page relied upon by petitioner is not generated by the MSTC application but is a browser-generated message, which cannot establish any malfunction of the e-auction platform.

G. <u>Submissions on behalf of Respondent No. 4</u> :

9. Learned Senior Advocate, Mr. M.S. Singhvi, appearing on behalf of respondent No.4, at the outset raised preliminary objections regarding maintainability of present writ petition. Learned counsel submitted that petitioner has not only bypassed the statutory remedy available under the MMDR Act, 1957 but also the remedy of appeal contemplated under Clause 17.4 of the Tender Document and has directly invoked the extraordinary jurisdiction of this Court under Article 226, which is not permissible under law.

9.1 It was further submitted that present petition suffers from unexplained delay and laches inasmuch as petitioner allowed the auction process to attain finality and approached this Court more than a month after respondent No.4 had been declared the preferred bidder.

9.2 Learned counsel further contended that the controversy involved in present proceedings involves disputed questions of fact and, therefore, falls outside the scope of judicial review under Article 226.

9.3 Learned Senior Counsel also submitted that petitioner has not approached this Court with clean hands and has suppressed material facts to make out a false case of technical glitch. It was contended that, while petitioner maintains that it remained logged in during the critical bidding period, however, its own electronic records contradict the position. According to learned counsel, petitioner's login records demonstrate that its last login attempt occurred at 19:37:37 hours, mere seconds before the expiry of the bidding window, and petitioner's firewall logs record no activity between 19:33:17 and 19:36:27 hours. Learned counsel, therefore, submitted that petitioner had remained inactive during the crucial bidding period and attempted a fresh login at the last moment and any delay encountered thereafter was attributable to petitioner's own network interruption, technical delays or slow hardware and not to any technical malfunction of the MSTC platform.

9.4 Learned Senior Counsel adopted the submissions advanced on behalf of respondent No.3 that the material placed on record establish that no technical malfunction occurred on the e-auction platform during the relevant period. Learned counsel further submitted that petitioner, having participated in the auction with full knowledge of the Tender Conditions, including the responsibility cast upon individual bidders to ensure proper internet connectivity, cannot seek reopening of a concluded auction merely because it failed to emerge as the highest bidder.

9.5 Learned counsel for respondent No.4 further submitted that petitioner is a habitual litigant and routinely files writ petitions alleging technical glitches. Respondent No. 4 contends that these technical irregularities seem to arise only in specific instances where petitioner participates and fails to emerge as the winning bidder. According to respondent No.4, present writ petition is another attempt to reopen a concluded auction.

9.6 Learned counsel also questioned the *bona fides* of petitioner in making the offer, during the course of hearing, to commence bidding at 50%. It was argued that neither the writ petition nor the contemporaneous correspondence addressed to respondents contains any such offer and, significantly, petitioner itself commenced bidding at a much lower premium during the auction.

9.7 Learned Senior Counsel submitted that respondent No.4, having emerged as the highest bidder and having complied with obligations under the Tender Document, has acquired valuable rights, which cannot now be unsettled in writ proceedings. It was argued that public interest lies not merely in maximisation of revenue but equally in preserving the certainty, transparency and finality of public auctions. According to learned counsel, petitioner is, in substance, seeking a second opportunity after having failed to emerge as the highest bidder and no arbitrariness, *mala fides* or procedural illegality having been established, no interference under Article 226 is warranted.

9.8 Learned counsel for Respondent No. 4 has relied upon following judgments: -

Sr. No.	Title/Case No.
1.	Bhaskar Laxman Jadhav & Ors. v. Karamveer Kakasaheb Wagh Education Society & Ors.; (2013) 11 SCC 531
2.	K.D. Sharma v. Steel Authority of India Ltd. & Ors.; (2008) 12 SCC 481
3.	JSW Infrastructure Ltd. & Anr. v. Kakinada Seaports Ltd. & Ors.; (2017) 4 SCC 170
4.	Mahaveer Prasad Meena & Anr. v. State of Rajasthan & Ors. ; S.B. C.W.P. No.2221/2026
5.	M/s Mythri Infrastructure and Mining India Pvt. Ltd. & Anr. v. State of Odisha & Ors.; Writ Petition (Civil) No.26548/ 2021
6.	M/s Mythri Infrastructure and Mining India Pvt. Ltd. & Anr. v. State of Odisha & Ors.; SLP No.20851/2021
7.	Jindal Steel and Power Limited & Anr. v. Union of India.; (2023) SCC Del 4401

8.	Jindal Steel and Power Limited & Anr. v. Union of India.; SLP No. 23313/2023
9.	Anandam Minerals Pvt. Ltd. v. Union of India & Ors. 2025:DHC:11403-DB.
10.	Anandam Minerals Pvt. Ltd. v. Union of India & Ors. SLP No.2519/ 2026
11.	Prakash Asphaltings and Toll Highways (India) Ltd. v. Mandeepa Enterprises and Others.; 2025 SCC Online SC 195
12.	India Thermal Power Ltd. v. State of M.P.; (2000) 3 SCC 379
13.	Vice-Chairman and Managing Director, City and Industrial Development Corporation of Maharashtra Limited & Anr. v. Shishir Realty Private Ltd. & Ors.; (2022) 16 SCC 527
14.	Golden Food Products India v. State of UP & Ors.; 2026 SCC Online SC 24.
15.	M.P. Power Management Co. Ltd. Jabalpur v. Sky Power Southeast Solar India (P) Ltd.; (2023) 2 SCC 703
16.	Subodh Kumar Singh Rathour v. Kolkata Metropolitan Development Authority; (2024) 15 SCC 461
17.	Maharashtra Housing Development Authority v. Shapoorji Pallonji and Compnay Pvt. Ltd. & Ors.; (2018) 3 SCC 13
18.	Jagdish Mandal v. State of Orissa & Ors.; (2007) 14 SCC 517
19.	Central Coalfields Ltd. & Anr. v. SLL-SML (Joint Venture Consortium) & Ors.; (2016) 8 SCC 622
20.	M.K. Medicare Services v. President, Rajasthan Medicare Relief Society.; S.B. Civil Second Appeal No.221/ 2014
21.	State of Punjab v. Surinder Kumar; (1992) 1 SCC 489
22.	Abhinav Bharat Congress v. Union of India & Ors.; Writ Petition (Civil) No.395/ 202
23.	Bank of India & Ors. v. Muthyala Saibaba Suryanarayana Murthy and Anr.; (2025) SCC Online SC 585
24.	Natural Resources Allocation, In Re, Special Reference No.1 of 2012.; (2012) 10 SCC 1

H. <u>Petitioner's Rebuttal to the Submissions advanced on behalf of Respondent No. 4</u> :

10. Refuting the preliminary objections raised on behalf of respondent No. 4, learned Senior counsel representing petitioner contended that present petition is maintainable nonetheless.

10.1 On the question of delay, learned Counsel submitted that after the cause of action arose, petitioner had continuously been pursuing its grievance before the respondents and spent considerable time in collecting verifiable records before approaching this Court. It was further submitted that the State has neither issued Letter of Intent nor taken any irreversible step pursuant to the declaration of respondent No. 4 as the preferred bidder. Learned counsel contended that the short delay in filing the petition cannot therefore be regarded as fatal.

10.2 Learned counsel reiterated that the *bona fides* of petitioner are unimpeachable and are established from its conduct throughout the auction and even thereafter. It was submitted that allegation of not approaching the Court with clean hands is based on selective reading of the record and thus, the same is misconceived.

10.3 Further disputing the allegation of being a habitual litigant, learned counsel submitted that petitioner has only ever challenged one other auction on the ground of technical glitch, in which relief was granted by this Court in its favour.

10.4 Learned Senior Counsel for the petitioner reiterated that even if it is assumed *arguendo* that technical glitch at Respondent No. 3's end has not been conclusively proved, re-auction in present circumstances is highly necessitated in public interest.

It was submitted that recent auction history for major mineral blocks in the immediate geographical vicinity of the Notified Limestone Block shows that the final winning bid percentages regularly go up to substantially higher levels in comparison to current bid of 40.05% offered by respondent No.4, which would result in a direct and quantifiable loss of approximately ₹550 crores to the public exchequer.

10.5 Learned Senior Counsel further submitted that respondent No.4 has not acquired any vested right as, according to the terms of the tender document and the statutory rules, no absolute right accrues in favor of preferred bidder prior to the formal execution of a mining lease deed.

I. <u>Sur-Rejoinder by Respondent No. 4</u> :

11. In the sur-rejoinder, learned Senior Counsel submitted that petitioner's claims regarding loss to the exchequer are misleading, factually incorrect, and inconsistent with prevailing market data. Learned counsel contended that several neighboring limestone blocks have been successfully auctioned at substantially lower premiums, which establishes that its bid of 40.05% is highly competitive and realistic. On the other hand, if petitioner's argument were accepted, it would render each such concluded auction subject to re-opening.

11.1 It was further contended that petitioner already holds multiple mining leases in District Nagaur with substantial limestone reserves and, having regard to its present production capacity, the Notified Limestone Block is unlikely to be immediately developed if allotted to petitioner; whereas allotment of the block to respondent No.4 would ensure immediate mining operations, generation of royalty, and employment opportunities for the local population.

11.2 Learned Senior Counsel further contended that present writ petition has been instituted with an oblique motive. It was submitted that an existing High Tension (HT) transmission line passes through the Notified Limestone Block and, if the block is allotted to respondent No.4, petitioner would be required to incur substantial expenditure towards relocation of said transmission line. Learned counsel submitted that present proceedings are intended to avoid such relocation and to enable petitioner to retain control over the notified block while continuing mining operations from its existing leases.

IV. <u>Analysis</u> :

12. This Court has considered the pleadings, material placed on record and submissions advanced by learned counsel for the parties, including the judicial pronouncements relied upon in support thereof. Reference has been made only to such authorities as are considered relevant to the issues arising for determination.

A. <u>The Question of Petitioner's *Bona fides*</u> :

13. One of the principal submissions advanced before this Court on behalf of petitioner is that the interference of this Court is warranted as the facts of the case reveals that petitioner has pursued the entire bidding process with utmost *bona fides* and genuine intentions to take the bid ahead / higher. It was submitted that petitioner is an experienced bidder and has participated in many mineral auctions across the country. Being desirous of participating in the present e-auction for the Notified Limestone Block, petitioner registered itself on the MSTC platform, purchased the tender document, submitted its technical bid and furnished a bank guarantee of Rs. 14,40,19,715. Petitioner was also declared one amongst the three bidders found technically qualified to participate in the auction.

13.1 The material placed on record indicates that on 10.12.2025, petitioner was one of the two bidders who participated therein and submitted 40+ bids throughout the course of the day.

13.2 According to petitioner, after the bidding window stood extended consequent to the submission of the revised bid of 40.05% by respondent no. 4, while attempting to submit a higher bid of 40.10%, petitioner experienced a technical glitch allegedly attributable to the MSTC platform and the same prevented petitioner from submitting its bid.

13.3 It is contended that after encountering the alleged interruption, petitioner contacted MSTC's officials and filed a written complaint through e-mail while attaching all relevant technical material as was available with it.

13.4 This Court finds that the conspectus of the material placed on record *prima facie* demonstrates that petitioner experienced the alleged technical difficulty while attempting to submit its revised bid of 40.10%. The immediate attempts made to contact the MSTC officials and the subsequent email communications also disclose prompt action on the part of petitioner in reporting and seeking resolution of the issues faced by petitioner. Said chronology of events, in the opinion of this Court, clearly discloses a *bona fide* and genuine interest on the part of petitioner to participate in the e-auction process for the Notified Limestone Block and an endeavor to carry the bidding process ahead.

14. On the other hand, learned Senior Counsel appearing for respondent no. 4 seriously disputed the *bona fides* of petitioner and contended that it has approached this Court with unclean hands, suppressed material facts, made contradictory statements

of fact at different points of time, is a habitual litigant challenging concluded auctions on alleged ground of technical glitches and has instituted present proceedings with an oblique commercial motive.

14.1 It was argued that petitioner's own login history records a fresh login only at 19:37:37 hours and the firewall logs disclose no activity between 19:33:17 hours and 19:36:27 hours and that there were repeated changes in petitioner's source IP addresses.

On the strength of these circumstances, learned counsel submitted that petitioner remained inactive during said period and attempted to connect through different system only moments before closure of the auction. Reliance was also placed upon Clause 1.12 of the Tender Document to contend that responsibility for maintaining the proper technical environment rested entirely upon the participating bidder.

14.2 This Court finds that said contentions of respondent no. 4 proceed upon a selective reading of the entries in the electronic record furnished by petitioner. Learned Senior Counsel appearing for the petitioner explained that petitioner’s firewall infrastructure generates log entries only upon successful completion of the Transmission Control Protocol (TCP) session handshake, i.e., upon receipt of confirmation from the destination server. It was pointed out that a similar gap exists in the firewall logs between 18:46:09 hours and 18:51:21 hours despite petitioner having successfully submitted a valid bid at 18:50:50 hours. The absence of firewall entries, therefore, do not support the contention of respondent that petitioner remained inactive during the extended bidding window.

14.3 More importantly, this Court finds that aforesaid allegations are not borne out from the Technical Report, which does not record that petitioner remained inactive during the extended bidding window, nor that it logged out of the system and then attempted a login at the last-minute.

On the contrary, the report mentions the sequence of login attempts made by petitioner during the relevant period. When the report itself does not come to the conclusion that the transaction failed on account of any of the aforesaid circumstances, the contentions of the respondent cannot be sustained.

14.4 It was also contended on behalf of respondent no. 4 that petitioner has shifted its stand during the course of proceedings and has attempted to improve its case before this Court. It was argued that the first e-mail addressed by petitioner to respondent no. 3 did not contain the elaborate facts stated before this Court. It was also contended that no communication regarding alleged technical glitch was made by petitioner to MSTC during the subsistence of the eight-minute bidding window.

14.5 This Court, however, is of the opinion that the purpose of the initial communication was to immediately intimate the respondents about the technical difficulty experienced by petitioner and to seek redressal thereof. Thereafter, petitioner supplemented its grievance by forwarding screenshots, video recordings and other material available with it. Mere elaboration of the grievance before the Court cannot be deemed as an improvement of the case or deliberate change of stand. Moreover, as already observed hereinabove, petitioner approached the respondent authorities promptly and the few minutes taken in doing so cannot be deemed to be such as to have a bearing upon the *bona fides* of petitioner.

14.6 This Court also finds no merit in the contention that the proceedings were initiated to avoid relocation of the existing High-Tension transmission line. The same is rendered untenable in view of the fact that the writ petition was instituted on 22.01.2026, whereas the communication directing relocation of High-Tension transmission line was admittedly issued only on 02.02.2026.

14.7 Equally unpersuasive is the contention of Respondent No.4 that petitioner is in the habit of challenging concluded auctions by alleging technical glitches. At the outset, it may be observed that there is no principle of law which precludes a litigant from invoking the jurisdiction of this Court more than once merely because similar issues arise in different factual situations. Each case must necessarily be decided on its own facts. Further, it is not the case of respondent no. 4 that the earlier proceedings instituted by petitioner were found to be frivolous, vexatious or an abuse of the process of law, nor has any court of law recorded such finding regarding conduct of petitioner in earlier litigations. Said contention, accordingly, deserves to be dismissed.

14.8 Respondent No.4 has relied upon the decisions of the Hon'ble Supreme Court in ***Bhaskar Laxman Jadhav*** (supra) and ***K.D. Sharma*** (supra) as well as the decision of Coordinate Bench of this Court in ***Mahaveer Prasad Meena*** (supra) to contend that a litigant approaching a writ court without clean hands or while suppressing material facts is not entitled to any discretionary relief. For purposes of reference, the relevant observations of the

Hon'ble Supreme Court in ***K.D. Sharma*** (supra) are reproduced hereinbelow: -

> *"34. The jurisdiction of the Supreme Court under Article 32 and of the High Court under Article 226 of the Constitution is extraordinary, equitable and discretionary. Prerogative writs mentioned therein are issued for doing substantial justice. It is, therefore, of utmost necessity that the petitioner approaching the writ court must come with clean hands, put forward all the facts before the court without concealing or suppressing anything and seek an appropriate relief. If there is no candid disclosure of relevant and material facts or the petitioner is guilty of misleading the court, his petition may be dismissed at the threshold without considering the merits of the claim.*
>
> *35. …*
>
> *36. A prerogative remedy is not a matter of course. While exercising extraordinary power a writ court would certainly bear in mind the conduct of the party who invokes the jurisdiction of the court. If the applicant makes a false statement or suppresses material fact or attempts to mislead the court, the court may dismiss the action on that ground alone and may refuse to enter into the merits of the case by stating, "We will not listen to your application because of what you have done." The rule has been evolved in the larger public interest to deter unscrupulous litigants from abusing the process of court by deceiving it."*

There can be no quarrel with the legal proposition thus enunciated. A litigant invoking the extraordinary jurisdiction of this Court is undoubtedly under an obligation to make a full and candid disclosure of all material facts, and deliberate suppression or misrepresentation may disentitle such litigant from obtaining relief under Article 226 of the Constitution.

14.9 The decisions relied upon by respondent No.4, however, were delivered in cases where the Court clearly found suppression of material facts, concealment of relevant documents or misstatements on the part of petitioners therein. As the foregoing discussion demonstrates, no such circumstance is made out in the present case. The discrepancies pointed out by the respondent no. 4 are minor in nature and not such as to be equated with suppression of material facts or misrepresentation so as to disentitle the petitioner from invoking the extraordinary jurisdiction of this court. The authorities relied upon are, therefore, distinguishable on facts and do not advance the case of respondent No. 4.

15. Notwithstanding the same, the matter of fact remains that the *bona fides* of petitioner, its desire to participate in the e-auction and intentions to carry it forward, cannot by themselves entitle it to the reliefs prayed for. Under Article 226, the doors of the Constitutional Courts undoubtedly remain open to every person who claims that she / he has suffered an injustice or has been deprived of a legal right; however, the exercise of such jurisdiction depends not merely upon the genuineness of the grievance but upon the claimant establishing that the alleged injustice has in fact occurred and is attributable to the person / entity against whom relief is sought.

15.1 In the case at hand, therefore, the *bona fides* of petitioner only give it a standing to invoke the extraordinary jurisdiction of this Court; however, the burden still rests upon it to establish that the alleged interruption which prevented it from submitting its revised bid was attributable to some issue / malfunction on the e-auction platform operated and maintained by MSTC. Reference of Clause 1.12 of the tender documents assumes significance here as it was incumbent upon the petitioner to maintain proper standards of the required hardware and to ensure smooth network conditions. Until petitioner succeeds in discharging said burden, the *bona fides* of petitioner (before, during or after the auction) alone cannot carry the matter any further.

B. <u>The Last Eight Minutes: The Buck Stops Where?</u>

16. The central controversy at hand concerns the attribution of responsibility for the difficulty allegedly experienced by petitioner while attempting to submit its revised bid of 40.10% during the extended bidding window.

As observed here-in-above, the material placed on record *prima facie* indicates that petitioner experienced some difficulty while attempting to submit its revised bid. The question which, therefore, falls for determination is whether petitioner has discharged its burden of proof and has been able to establish that the interruption complained of was attributable to any malfunction of the e-auction platform operated and maintained by the MSTC.

16.1 The technical material placed before this Court in this respect is the Technical Report prepared by the Expert Technical Committee of MSTC, wherein detailed analysis is undertaken of the server logs and other contemporaneous electronic material generated during the transaction, including the material furnished by petitioner.

16.2 A perusal of the report indicates that authentication of a bid proceeds in two stages. The first stage is the user verification, i.e., submission of the user ID and password, and the second stage is the DSC authentication. The report records that during the relevant period, petitioner made 5 attempts to log into the system and successfully completed the first stage of verification on each occasion; however, the second stage of authentication was completed only at 19:40:42 hours, i.e., after expiry of the bidding window.

The firewall logs placed on record by MSTC further shows that there was no blocking or denial of access at its system's end in respect of petitioner's network during the relevant period. The technical committee identifies the interruption as having occurred during this second stage of DSC authentication and attributes the same to network instability in petitioner's technical environment, as indicated by the repeated changes in petitioner's IP addresses during the relevant period, which, according to the report, affected session continuity required for secure DSC authentication.

16.3 Petitioner has sought to explain the shift in IP addresses by stating that its network operates through two Internet Service Providers configured under a load-balancing mechanism. Each connection carries a separate public IP address and network may be routed through either connection with a view to ensure continuity in network connectivity with minimal disruption. It was submitted that the same configuration remained in operation throughout the auction proceedings, and if the load-balancing mechanism were incompatible with the auction process, similar difficulty would have arisen throughout the day and not merely during the concluding eight-minute bidding window. Reliance was further placed upon the reports prepared by petitioner's internet service providers, which record that, during the relevant period, there was 100% network availability at petitioner's end and the bandwidth utilization also remained within low ranges of 3-4%.

16.4 A perusal of the Technical Report shows that on the five occasions between 19:35:49 hours and 19:40:32 hours, when petitioner attempted to log into the system, repeated fluctuation in its IP Addresses is recorded. The explanation regarding load balancing mechanism furnished by petitioner merely addresses the mechanism behind shift of IP addresses; but it does not answer the reason behind such frequent shifting of IP Addresses.

It is not the case of respondents that a load-balancing configuration is incompatible with the auction platform or was impermissible under the conditions of the Tender Document. Indeed, it is stated before this Court that MSTC's network itself operates through the use of dual internet service providers configured through a similar load-balancing mechanism. The technical explanation furnished in the report is much more nuanced and is based on the ground that successful DSC authentication operates entirely on the client's own network environment and depends upon several user-controlled parameters, including proper browser configuration, correct installation and functioning of USB token drivers, stable internet connectivity, local system configurations, etc. According to the report, any disruption / shift in network during the DSC authentication stage, irrespective of the reason for such change, is capable of interrupting session continuity required for secure DSC authentication.

16.5 The reliance placed upon the reports of petitioner's Internet Service Providers do not advance the case of petitioner. Although said reports certify that there was continued network availability and minimal bandwidth utilization at petitioner's end during the relevant period, however, the same does not displace the finding of recorded fluctuations in petitioner's IP addresses. If, indeed, petitioner’s network conditions were so stable as the reports of its Internet Service Providers certify, no occasion should arise for the change in the networks under the load-balancing mechanism. However, since evidently there had been repeated shifts in petitioner’s IP addresses, the certification of continued connectivity is immaterial and do not detract from the technical explanation furnished in the technical report.

16.6 The technical team also conducted controlled simulation tests as part of the technical audit to recreate the circumstances under which the error message displayed to petitioner could be triggered. The simulations were carried out in two phases. In the first phase, when normal network conditions were maintained, the bid was successfully authenticated and submitted without any interruption. In the second phase, the available bandwidth was artificially restricted through the use of a NetLimiter tool, whereupon the browser displayed the same error page which, according to petitioner, appeared on its screen during the auction.

Learned Senior Counsel for the petitioner questioned the evidentiary value of said simulations by contending that the same are hypothetical and speculative. In this regard, it is pertinent to observe that some of the screenshots relied upon by petitioner are themselves based upon subsequent demo runs of the auction platform undertaken by petitioner itself to explain the sequence of events leading to the error message experienced by petitioner during the auction. Having itself relied upon a similar technique to explain its case, it does not lie in the mouth of petitioner to object to the adoption of a similar methodology by the internal technical team of respondent no. 3.

This Court is conscious that such simulations may not conclusively recreate the exact circumstances prevailing at petitioner's end. However, this Court is of the view that the simulations were part of the larger inquiry undertaken in the report. After concluding, on the basis of detailed technical analysis of the contemporaneous material relating to the bidding process, that the cause of the disruption originated in petitioner's technical environment, the expert committee also ran the simulations to further identify the possible circumstances in which the error page displayed to petitioner could be occasioned. The results of said simulation show that the same error can occur under client-side disrupted network conditions, and, therefore, corroborate the technical explanation recorded in the Technical Report.

16.7 At this stage, reference may aptly be made to Clause 1.12 of the Tender Document, which reads as under: -

> *"**1.12. Each Bidder shall be responsible for any problem at the Bidder's end like failure of electricity, loss of internet connection, any trouble with Bidder's computer etc. which may cause inconvenience or prevent the Bidder from bidding in e-auction**."*

Aforesaid clause, in unambiguous terms, places upon every participating bidder the responsibility for any interruption in its technical set-up, including on account of any issue with the internet connection or with the system used, which may prevent the participant from bidding in the e-auction. Petitioner must be presumed to have participated in the auction with full knowledge of said condition. Once the Technical Report attributes the unsuccessful transaction to circumstances operating within petitioner's technical environment and such conclusion finds corroboration from the surrounding circumstances, the responsibility for the interruption complained of cannot be shifted upon MSTC.

16.8 This Court is also persuaded by the circumstantial findings recorded in the report, namely, that during the relevant period between 19:29 hours and 19:39 hours on 10.12.2025, 29 other auctions were simultaneously being conducted on the MSTC platform across the country, during which 197 bids were successfully received and processed without any complaint of platform malfunction. More significantly, the Technical Report records that another "A-Type" auction pertaining to the same region, namely, MSTC/JPR/Department of Mines and Geology (DMG) Rajasthan/ME Jhunjhunu/1/25-26/44261, remained operational between 16:00 hours and 21:58 hours on 10.12.2025, without any technical complaint. It has further been brought on record that another auction, which commenced at 11:00 hours on 10.12.2025, continued uninterrupted till 02:25 hours on 11.12.2025, again without any platform-side malfunction being reported.

16.9 Similar circumstances have weighed with the Hon'ble Supreme Court in ***Shapoorji Pallonji*** (supra) as well as the Hon'ble Delhi High Court in ***Jindal Steel and Power Limited*** (supra). For purposes of reference, the observations of the Hon'ble Delhi High Court in ***Jindal Steel*** (supra) are reproduced hereinbelow: -

> *"82. A perusal of the material on record shows that at the time when the auction for Chhendipada (Revised) Coal Mine was going on, two more auctions - one for Parbatpur Central Mine (40729) and the other for Datima Mine (40733), were being conducted on the very same e-auction*

portal. Material on record indicates that between 14 : 48 : 09 hrs to 14 : 56 : 09 hrs, i.e. the time period in which the Petitioner faced technical glitches on the e-auction portal, bidders were able to place their bids for the other two mines. Bids were received at 14 : 51 : 57 for Parbatpur Central Mine and for Datima Mine bids were received at 14 : 48 : 13, 14 : 49 : 14, 14 : 54 : 10 & 14 : 56 : 10. Since the bidders for two other auctions for coal mines were about to place the bids, which were being conducted at the very same time on the very same portal, it cannot be said that there was a technical glitch in the portal of Respondent No. 3. The Petitioner has not been able to make out a case that there was a technical glitch across the board on the portal on which eauctions were being conducted."

(emphasis supplied)

16.10 Similarly, while dismissing the Special Leave Petition in ***M/s Mythri Infrastructure and Mining India Pvt. Ltd.*** (supra), the Hon'ble Apex Court affirmed the decision of the Division Bench of the Hon'ble Orissa High Court that was under challenge and held that the successful processing of approximately 122 simultaneous bids constituted a relevant circumstance in concluding, on a preponderance of probabilities, that the alleged technical glitch was at the end of the bidder.

16.11 Learned Senior Counsel representing petitioner repeatedly asserted his session specific theory, namely, that the platform may remain operational for other users while an individual user experiences a session freeze or failed transaction, and maintained that the functioning of the platform for other users is of little relevance. However, beyond asserting such possibility, no material has been placed on record to demonstrate that the alleged session-specific interruption originated from the MSTC platform, whereas the totality of circumstances lend considerable support to the findings recorded in the Technical Report that the unsuccessful transaction was not attributable to any malfunction of the MSTC platform.

17. Learned Senior Counsel appearing for the petitioner disputed the credibility of the Technical Report on the ground that it has been prepared by respondent No.3 itself, the very authority whose conduct is under challenge. It was further submitted that the report was prepared without affording any opportunity of hearing to petitioner and without due consideration of the technical material furnished by it. Learned counsel, therefore, reiterated that an independent technical expert committee ought to be constituted for examination of the controversy. Reliance in this regard has been placed upon the orders passed by the Hon'ble Division Bench of this Court in ***M/s Ambuja Cement Limited*** (supra), the Hon'ble Delhi High Court in ***Karix Mobile Private Limited*** (supra) and ***Anandam Minerals Private Limited*** (supra), as also upon order passed by the Hon’ble Bombay High Court, Nagpur Bench in ***Kundan Gold Mines Private Limited*** (supra).

17.1 This Court finds that the Technical Report has been prepared by the expert technical committee of MSTC, which is the system operator entrusted with conducting such e-auctions across the country and maintaining the electronic records generated thereof. As observed hereinabove, the report is founded upon objective analysis of contemporaneous data, including server logs and other electronic material generated during the transaction and duly takes into consideration the screenshots and video recording furnished by petitioner. Neither has the petitioner brought on record any material nor otherwise been able to persuade this

Court that there exists any ground to doubt the competence and expertise of the technical team, the fairness of the process adopted by it or the correctness of its conclusions. In this view of the matter, the mere fact that the report has been prepared by respondent No.3 cannot, by itself, constitute a ground to discard its findings.

17.2 This Court also finds that respondents had duly informed petitioner through email of their stand that they had not detected any error on the MSTC platform. Moreover, the controversy under consideration is essentially technical in nature and turns upon analysis of electronic records and the expert committee has duly taken into consideration and dealt with the technical material supplied by petitioner in support of its grievance. Thus, in the opinion of this Court, affording a prior opportunity of personal hearing to petitioner was not necessary and the denial thereof does not vitiate the conclusions recorded in the report.

17.3 A perusal of the decisions relied upon by the petitioner in that regard further shows that constitution of independent expert committees in those matters was directed with the consent of the parties or otherwise in the peculiar facts obtaining therein. None of the aforesaid decisions lays down a proposition that whenever the conclusions recorded by a technical expert are disputed, the Court is bound to discard the existing technical assessment and direct constitution of another expert committee.

17.4 On the contrary, the governing principle appears to be that unless the material already available on record discloses circumstances giving rise to a legitimate doubt regarding the correctness, fairness or reliability of the expert assessment, Constitutional courts would ordinarily rely upon the opinion of technical experts rather than substituting their own opinion or direct a fresh technical enquiry. The Bombay High Court, Nagpur Bench, in ***Kundan Gold Mines Private Limited*** (supra) adopted the same approach and declined to substitute judicial opinion for expert technical assessment in relation to an alleged e-auction glitch, while observing thus: -

> *"21. Mr. J.T. Gilda, learned Senior Counsel, submitted that, on 26.03.2026, the petitioner had raised objections to the report of the expert body. So far as the objections raised by the petitioner to the report of the expert body are concerned, the said objections require technical knowledge for proper appreciation thereof, and we are of the considered opinion that, in such a situation where a clear finding has been recorded by the experts in their report, the Court would ordinarily rely upon the opinion of the experts.*
>
> *22. Since the challenge involved in the present petition, so also the subsequent objections raised by the petitioner to the report of the expert body, require technical knowledge of a high order, this Court would be slow in interfering with the findings recorded by the expert body…*
>
> *23…*
>
> *24. In view of the above, we are of the considered opinion that, in the facts of the present case, we have no option but to go by the report of the experts and, in holding so, we are supported by the judgment of the Delhi High Court in the case of Jindal Steel and Power Limited and another Vs. Union of India and others [2023 SCC OnLine Del 4401], wherein it was held that the issue raised in the petition was highly technical in nature and, therefore, no adjudication in proceedings under Article 226 of the Constitution of India was permissible."*

17.5 Similarly, in ***Anandam Minerals (P) Ltd.*** (supra), the Hon'ble Delhi High Court observed as follows: -

> *"30. Though certain objections have been raised by the petitioner to the second report of the Expert Committee dated 12.09.2025, however having regard to the nature of technical knowledge required to reflect upon such report or objections, we are of the opinion that the Courts in such situations where there is a clear finding given by the*

Experts in their report, should ordinarily go by the report of the Experts. We have already stated above that the Experts in their report dated 12.09.2025 have clearly concluded that the petitioner was not able to prove that the server of the respondent no. 2 had any fault…The Experts have thus opined that there is a high probability that there was an error because after the mouse moved in petitioner's window, the page transitioned to the index page, which is the normal behaviour if the second step is not successful and the error is acknowledged.

31. We have already expressed our opinion that, in the facts of the case, we have no option but to go by what the Experts have reported and in the absence of any glitch attributable to the server of the respondent no. 2 - MSTC, we are unable to find any force in the submissions made by the learned senior counsel for the petitioner…"

17.6 Broadly speaking, direction for the constitution of an independent expert committee can be passed – i) when the parties are themselves in agreement that an expert committee be constituted; ii) when no other technical material / report of an expert committee is otherwise available on record; or iii) when although report of an expert committee is available on record, however, the same is found to be apparently and patently unreliable.

17.7 In the present case, although petitioner has questioned the conclusions of the Technical Report, however, it has not been able to establish any error, methodological infirmity or any other circumstance giving rise to a legitimate apprehension regarding the fairness or reliability of the technical evaluation undertaken in the report.

18. Upon an overall consideration of the material placed on record, this Court finds that the Technical Report presents a coherent and reasoned explanation for the interruption

experienced by petitioner and demonstrates that the source of interruption did not lie at MSTC’s end. In summation: -

(i) Upon a detailed technical analysis, the report identifies the stage at which the unsuccessful transaction occurred, namely, during DSC authentication. Said stage operates entirely on bidder’s own technical environment and is dependent upon various user-controlled parameters which remain beyond the control of MSTC.

(ii) According to the report, a shift / disruption in network during the DSC authentication stage is capable of interrupting session continuity. It is evident from the electronic records placed on record that there were repeated fluctuations in petitioner's IP addresses during the period when it attempted to authenticate and submit its revised bid.

(iii) Petitioner's explanation regarding the use of network of dual internet service providers and a load-balancing mechanism alone, does not displace the findings recorded in the report as the basic reason for the frequent shift in network is not explained in the certificates issued by the Internet Service Providers.

(iv) The controlled simulations undertaken by the technical team, although not conclusive, demonstrate that the error message displayed to petitioner can occur under client-side network conditions and, therefore, lend corroborative support to the explanation recorded in the report.

(v) The surrounding circumstances that several other auctions continued uninterrupted on the MSTC platform during the relevant period, further corroborate the findings of the report.

(vi) The material produced by petitioner shows that it encountered difficulty while attempting to submit its revised bid; however, it does not establish that the source of such difficulty lay in the e-auction platform maintained by MSTC.

(vii) Petitioner has failed to establish any infirmity which may justify discarding the report or warrant constitution of an independent technical committee.

In view of the foregoing and considering Clause 1.12 of the Tender Document, which expressly casts upon every participating bidder the responsibility of ensuring readiness of its own technical environment, this Court finds that petitioner has failed to establish that its inability to submit the revised bid of 40.10% was attributable to any malfunction of the MSTC platform. Consequently, the central premise upon which the present writ petition proceeds remains unestablished.

C. <u>Delay And Laches</u> :

19. Respondents have also objected to the maintainability of present writ petition on the ground of delay and laches. The material placed on record reveals that the auction concluded on 10.12.2025 and respondent no. 4 was declared the Preferred Bidder on 17.12.2025, whereas petitioner approached this Court only on 22.01.2026, i.e., after expiry of more than a month therefrom.

19.1 *Per contra*, learned Senior Counsel appearing for petitioner submitted that, during the intervening period, petitioner was *bonafidely* pursuing its representations before the respondents and was also collecting verifiable material to substantiate its grievance. Learned counsel further submitted that no irreversible step had been taken and that even the Letter of Intent had not been issued by the State. Learned Counsel further submitted that delay by itself does not operate as an absolute bar to exercise of jurisdiction under Article 226 of the Constitution and, in support thereof, reliance has been placed upon the decisions of the Hon'ble Supreme Court in ***VetIndia Pharmaceuticals Limited*** (supra), ***Mohd. Usman*** (supra) and ***Tukaram Kana Joshi*** (supra). The following observations of the Hon'ble Supreme Court in ***Tukaram Kana Joshi*** (supra) summarize the governing principle : -

> *"14. No hard and fast rule can be laid down as to when the High Court should refuse to exercise its jurisdiction in favour of a party who moves it after considerable delay and is otherwise guilty of laches. Discretion must be exercised judiciously and reasonably. In the event that the claim made by the applicant is legally sustainable, delay should be condoned. In other words, where circumstances justifying the conduct exist, the illegality which is manifest, cannot be sustained on the sole ground of laches. When substantial justice and technical considerations are pitted against each other, the cause of substantial justice deserves to be preferred, for the other side cannot claim to have a vested right in the injustice being done, because of a non-deliberate delay. The court should not harm innocent parties if their rights have infact emerged, by delay on the part of the Petitioners…"*

19.2 It is indeed the settled position of law that delay is not an inflexible bar to the exercise of jurisdiction under Article 226 of the Constitution. The jurisdiction exercised thereunder is equitable and discretionary in nature and is not subject to the law of limitation *stricto sensu.* At the same time, it has long been established that a person seeking extraordinary relief must approach the Court within reasonable time. Courts do not ordinarily assist "*the tardy and the indolent or the acquiescent and the lethargic*."

19.3 Judicial precedents show that reasonableness of time is not merely a correlative of the number of days that have elapsed. The inquiry is as much qualitative as it is quantitative and is informed by factors such as the nature of the proceedings under challenge and the explanation given for any delay.

The aspect of timing assumes particular significance in tender and auction matters as they are commercial transactions conducted in accordance with strict statutory and contractual timelines. Such proceedings are intended to attain finality with expedition so that the successful bidder and the State may proceed with implementation of the project with certainty. Courts must not encourage situations where the pendency of judicial proceedings is allowed to hang over the finality of a validly concluded auction at the will and convenience of a losing bidder.

19.4 The explanation given on behalf of petitioner does not, in the opinion of this Court, satisfactorily account for the delay of more than a month in invoking the writ jurisdiction of this Court. The record reveals that petitioner was already in possession of substantial technical material upon which reliance was placed in present petition. No subsequent expert opinion, fresh technical analysis or newly discovered material has been placed on record which could reasonably explain the delay.

Equally, after petitioner was informed of the categorical stand of MSTC that no platform error had been detected, nothing has been placed on record to indicate that it continued to pursue its grievance in any meaningful manner. In any event, mere pursuit of repeated representations after rejection is not a valid ground to condone delay.

19.5 Furthermore, the inquiry into delay and laches is directed principally towards the diligence with which the litigant has asserted its rights. The fact that no Letter of Intent had been issued or no irreversible step been taken pursuant to the declaration of the Preferred Bidder may affect the nature of relief ultimately granted, however, it does not explain or justify the delay in approaching the Court.

19.6 The decisions relied upon by petitioner reiterate that delay may be overlooked where refusal to interfere would perpetuate manifest injustice, continuing illegality or violation of constitutional rights. As already held here-in-above, petitioner has failed to establish that its inability to submit the revised bid was attributable to any malfunction of the MSTC platform. Consequently, the very foundation of its allegation of arbitrariness and denial of a level playing field does not survive.

19.7 In view of the foregoing, this Court finds that petitioner failed to act with the degree of expedition which the nature of the dispute demanded. Once the cause of action had crystallized upon the declaration of respondent no. 4 as the preferred bidder, the delay of more than a month in approaching this Court cannot be brushed aside as insignificant.

19.8 Nevertheless, having regard to the nature of the controversy and the elaborate submissions addressed by the parties, this Court considered it appropriate to examine the matter on merits as well. The course so adopted, however, should not be understood as diluting the settled principle that challenges to concluded tender and auction proceedings must be brought with utmost promptitude.

D. <u>Availability of Efficacious Alternative Remedy</u> :

20. Learned Senior Counsel appearing for the petitioner sought to repel the preliminary objection regarding availability of an alternative remedy by contending that the remedy of appeal contemplated under Clause 17.4 of the Tender Document is confined only to decisions taken by the auctioning entity and does not cover within its purview the opinion rendered by MSTC that no error had been detected on its platform. It was submitted that since the grievance of petitioner is directed not merely against the declaration issued by the State, declaring respondent No.4 as the preferred bidder but also against the decision of MSTC, the remedy of appeal under the Tender Document cannot be said to be efficacious.

20.1 Clause 17.4 is reproduced hereinbelow for ready reference: -

> *"**17.4 Appeals***
>
> *Any bidder or prospecting bidder is aggrieved that any decision, action or omission of the auctioning entity is in contravention to the provisions of applicable Act or the rules or guidelines issued there under, he may file an appeal to Additional Chief Secretary/Principle Secretary/Secretary, Mines & Petroleum, GOR, within a period of ten days, from the date of such decision or action, omission, as the case may be, clearly giving the specific ground or grounds on which he feels aggrieved.*
>
> *Provided that after the declaration of a bidder as preferred / successful, the appeal may be filed only by a bidder who has participated in auctioning proceedings:*
>
> *Provided further that in case an auctioning entity evaluates the technical bid before second round of auction, an appeal in this matter may be filed only by a bidder whose technical bid is found to be acceptable."*

A plain reading of aforesaid clause shows that the same is couched in language of the widest amplitude. It enables an aggrieved bidder to challenge *any decision, action or omission* of the auctioning authority alleged to be contrary to the governing statutory / contractual framework.

20.2 In any adjudicatory proceedings, whether judicial, quasi-judicial or administrative, the appellate / supervisory scrutiny of the final pronouncement / decision under challenge necessarily extends to the grounds, reasons and material upon which such decision is founded. The communication issued by MSTC informing petitioner that no technical error had been detected on its platform does not constitute an independent adjudication giving rise to a separate cause of action; rather, it forms the sole basis upon which the respondent State ultimately proceeded to declare respondent No.4 as the Preferred Bidder. Significantly, the first proviso to Clause 17.4 itself contemplates an appeal after declaration of a preferred / successful bidder. In this view of the matter, this Court cannot discern any impediment which prevented petitioner from invoking said appellate remedy.

20.3 Indeed, acceptance of petitioner's contention would substantially undermine the efficacy of the appellate mechanism itself. Every unsuccessful bidder could thereafter bypass the appellate remedy merely by contending that the challenge is directed *interalia* against the opinion or communication forming the basis of the final decision. If such an interpretation is taken, the same would render the provision of departmental remedy under Clause 17.4 redundant / otiose.

20.4 That said, having regard to the stage at which proceedings presently stand, nature of the issues involved and the detailed arguments already advanced by counsel for the parties, this Court has nevertheless examined the controversy on merits. Therefore, this Court does not consider it appropriate to non-suit petitioner solely on the ground of availability of an alternative remedy.

20.5 It is, however, clarified that the course adopted in the peculiar facts of the present case should not be understood as diluting the efficacy of the appellate remedy provided under the Tender Document. Nor should it be construed as conferring a licence upon bidders to routinely bypass the appellate mechanism and invoke the extraordinary jurisdiction of this Court under Article 226 of the Constitution without first exhausting the remedy consciously provided under the contractual framework governing the tender process.

E. <u>Exercise of Judicial Review in Tender Matters : Scope of Interference</u> :

21. The law governing judicial review in matters relating to public tenders and government contracts is well settled. While contractual decisions of the State and its instrumentalities are amenable to judicial review, the Court only examines the decision-making process and not the commercial soundness of the decision. Interference is warranted only where arbitrariness, *mala fides*, bias or irrationality is established, and due regard must be given to the discretion and commercial autonomy of the administrative authorities.

21.1 The foundational exposition of aforesaid principles is found in the celebrated judgment of the Hon'ble Supreme Court in ***Tata***

Cellular (supra). After an exhaustive survey of English and Indian authorities on administrative law, the Hon'ble Supreme Court crystallised the governing principles in respect of judicial review of administrative matters in the following terms: -

> *"94. The principles deducible from the above are:*
>
> *(1) The modern trend points to judicial restraint in administrative action.*
>
> *(2) The court does not sit as a court of appeal but merely reviews the manner in which the decision was made.*
>
> *(3) 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.*
>
> *(4) 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.*
>
> *(5) 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.*
>
> *(6) Quashing decisions may impose heavy administrative burden on the administration and lead to increased and unbudgeted expenditure."*

(emphasis supplied)

21.2 Recently, in ***Silppi Constructions Contractors v. Union of India*, (2020) 16 SCC 489**, after following the line of precedents commencing from ***Tata Cellular*** (supra), the Hon'ble Apex Court reiterated that Courts should exercise abundant caution and restraint while exercising their powers of judicial review in contractual and tender matters. It was observed thus: -

"19. This Court being the guardian of fundamental rights is duty-bound to interfere when there is arbitrariness, irrationality, mala fides and bias. However, this Court in all the aforesaid decisions has cautioned time and again that courts should exercise a lot of restraint while exercising their powers of judicial review in contractual or commercial matters. This Court is normally loathe to interfere in contractual matters unless a clear-cut case of arbitrariness or mala fides or bias or irrationality is made out. One must remember that today many public sector undertakings compete with the private industry. The contracts entered into between private parties are not subject to scrutiny under writ jurisdiction. No doubt, the bodies which are State within the meaning of Article 12 of the Constitution are bound to act fairly and are amenable to the writ jurisdiction of superior courts but this discretionary power must be exercised with a great deal of restraint and caution. The courts must realise their limitations and the havoc which needless interference in commercial matters can cause. In contracts involving technical issues the courts should be even more reluctant because most of us in Judges' robes do not have the necessary expertise to adjudicate upon technical issues beyond our domain. As laid down in the judgments cited above the courts should not use a magnifying glass while scanning the tenders and make every small mistake appear like a big blunder. In fact, the courts must give "fair play in the joints" to the government and public sector undertakings in matters of contract. Courts must also not interfere where such interference will cause unnecessary loss to the public exchequer.

20. The essence of the law laid down in the judgments referred to above is the exercise of restraint and caution; the need for overwhelming public interest to justify judicial intervention in matters of contract involving the State instrumentalities; the courts should give way to the opinion of the experts unless the decision is totally arbitrary or unreasonable; the court does not sit like a court of appeal over the appropriate authority; the court must realise that the authority floating the tender is the best judge of its requirements and, therefore, the court's interference should be minimal. The authority which floats the contract or tender, and has authored the tender documents is the best judge as to how the documents have to be interpreted. If two interpretations are possible then the interpretation of the author must be accepted. The courts will only interfere to prevent arbitrariness, irrationality, bias, mala fides or perversity…"

21.3 Another landmark judgment which defined the limits of judicial review in tender and governmental matters is ***Jagdish Mandal*** (supra), wherein the Hon'ble Supreme Court held that judicial review in contractual matters is intended to examine the legality of the decision-making process and not the commercial soundness of the decision itself. The relevant observations are reproduced hereinbelow: -

> *"22. Judicial review of administrative action is intended to prevent arbitrariness, irrationality, unreasonableness, bias and mala fides. Its purpose is to check whether choice or decision is made "lawfully" and not to check whether choice or decision is "sound". When the power of judicial review is invoked in matters relating to tenders or award of contracts, certain special features should be borne in mind. A contract is a commercial transaction. Evaluating tenders and awarding contracts are essentially commercial functions. Principles of equity and natural justice stay at a distance. If the decision relating to award of contract is bona fide and is in public interest, courts will not, in exercise of power of judicial review, interfere even if a procedural aberration or error in assessment or prejudice to a tenderer, is made out. The power of judicial review will not be permitted to be invoked to protect private interest at the cost of public interest, or to decide contractual disputes. The tenderer or contractor with a grievance can always seek damages in a civil court. Attempts by unsuccessful tenderers with imaginary grievances, wounded pride and business rivalry, to make mountains out of molehills of some technical/procedural violation or some prejudice to self, and persuade courts to interfere by exercising power of judicial review, should be resisted. Such interferences, either interim or final, may hold up public works for years, or delay relief and succour to thousands and millions and may increase the project cost manifold…"*

21.4 Furthermore, the Hon'ble Supreme Court, in ***Jagdish Mandal*** (supra), crystallized the two-pronged test which has since guided the Constitutional Courts in exercise of judicial review in respect of tender or administrative decisions. The tests thus laid down read as follows: -

> *"(i) Whether the process adopted or decision made by the authority is mala fide 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";*
>
> *(ii) Whether public interest is affected.*
>
> *If the answers are in the negative, there should be no interference under Article 226..."*

This Court shall now proceed to examine the controversy at hand in light of the aforesaid tests.

a) <u>First Test of *Jagdish Mandal* (supra)</u> :

22. The first test requires this Court to examine whether the decision-making process stood vitiated by arbitrariness, *mala fides*, favouritism, or such unreasonableness as would justify interference in exercise of judicial review. This Court has already held that petitioner has failed to establish that the interruption which prevented petitioner from submitting its revised bid originated from any malfunction of the MSTC platform. The material placed on record further establishes that the auction was conducted strictly in accordance with the Tender Document, respondent No.4's bid of 40.05% was recorded as the highest bid on the platform and it was accordingly declared the Preferred Bidder. No arbitrariness, *mala fides*, irrationality or procedural unfairness has been established in the conduct of the auction. Consequently, interference of this Court in terms of the first test of *Jagdish Mandal* (supra) is not warranted.

22.1 Similar approach has consistently been adopted by Courts across the board in matters concerning allegations of technical glitches in e-auctions, with judicial interference being declined where the bidder fails to establish that the interruption complained of was attributable to the e-auction platform itself. In ***Mythri Infrastructure*** (supra), repelling a similar contention of alleged technical glitch on the platform operated by respondent authorities, the Hon'ble Orissa High Court held as follows: -

> *"25. While the Petitioners might contend that their inability to upload the IPO was for reasons entirely outside their control, the fact remains that there was no technical glitch on the side of Opposite Party No. 3. The log enclosed with its counter affidavit makes it abundantly clear that none of the other bidders encountered any difficulty in uploading the technical bid as well as the IPOs. While the log does show that the Petitioners' three attempts at uploading the IPO prior to 3 PM on 24th August, 2021 were unsuccessful, this is not conclusive proof of the technical glitches at the end of the Petitioners being for reasons entirely outside their control. Even assuming in this regard in favour of the Petitioners, the fact remains that they need not have waited till the last minute to upload the IPO. The tender documents made it clear that Opposite Party No. 3 would not be responsible for any problem at the bidder's end. In fact, this is the reason why MSTC Limited had offered help to bidders…*
>
> *…*
>
> *28. The scope of interference by the writ Court in such matters is limited…*
>
> *…*
>
> *31. The timelines in a tender and the process itself ought not to be lightly interfered with as was observed in Uflex Ltd. v. Government of Tamil Nadu, 2021 SCC OnLine SC 738 as under:*
>
> > *"In commercial tender matters there is obviously an aspect of commercial competitiveness. For every succeeding party who gets a tender there may be a couple or more parties who are not awarded the tender as there can be only one L-1. The question is should the judicial process be resorted to for downplaying the freedom which a tendering party has, merely because it is a State or a public authority, making the said process even more cumbersome. We have already noted that element of transparency is always required in such tenders because of the nature of economic activity carried on by the State, but the contours under which they are to be examined are restricted as set out in Tata*

Cellular and other cases. The objective is not to make the Court an appellate authority for scrutinizing as to whom the tender should be awarded. Economics must be permitted to play its role for which the tendering authority knows best as to what is suited in terms of technology and price for them."

"47. Insofar as the participating entities are concerned, it cannot be contended that all and sundry should be permitted to participate in matters of this nature. In fact, in every tender there are certain qualifying parameters whether it be technology or turnover. The Court cannot sit over in judgment on what should be the turnover required for an entity to participate."

32. For all of the aforementioned reasons, this Court is not persuaded to grant the reliefs prayed for by the Petitioners. The writ petition is accordingly dismissed, but in the circumstances, with no order as to costs. The interim order is vacated."

Said decision of the Division Bench of the Hon'ble Orissa High Court was subsequently upheld by the Hon'ble Apex Court.

22.2 Similarly, in ***Jindal Steel*** (supra), the Hon'ble Delhi High Court declined to interfere in the matter as the bidder failed to establish that the alleged technical glitch originated from the MSTC platform. It was held that, in the absence of any lapse on the part of the auctioning authority, interference under Article 226 would undermine the credibility of public auctions and would be contrary to public interest. Relevant paras are reproduced hereinbelow: -

"96. In view of the above, it is well settled that the scope of interference by the High Court while exercising its jurisdiction under Article 226 of the Constitution of India is extremely narrow. This Court ought not to interfere unless it is established that the process adopted by the decision-making authority is mala fide, intended to favor someone, arbitrary or irrational. In case the decision-making process is just, fair and reasonable, the writ courts must loathe to interfere with the award of contracts by the State/Instrumentalities of the State. The decision taken by

the Respondents cannot be said to be vitiated by any of the aforesaid criteria.

97. The projection of the Petitioner is based on several factors which are not certain and even if it is assumed that the Petitioner will mine at full capacity for fifty years then also this Court cannot shut its eyes on the other possibilities which might crop up like the Petitioner going into liquidation, the change in law and policy in the country, etc. and, therefore, the figures projected by the Petitioner seems illusive.

98. In view of the above, since the Petitioner has not been able to point out any lapse on the part of the auctioning authority and in view of the fact that the figures given by the Petitioner are based on assumptions, this Court is not inclined to interfere with the decision of Respondent No. 2 in declaring Respondent No. 5 as the highest bidder. Interference by this Court on the ground that there was a technical glitch at the end of the bidder or that the bidder was not able to place its bid for reasons beyond its control even when the auction has been conducted in a fair and transparent manner will result in eroding the credibility of Government auctions which will be against public interest."

22.3 In ***Shapoorji Pallonji*** (supra), where the technical material placed on record established that the e-portal was functioning normally for other bidders and there was no system-side malfunction, the Hon'ble Supreme Court refused to interfere. The Hon'ble Court observed that granting the relief prayed for in such circumstances would virtually amount to allowing a second opportunity after conclusion of the tender process, which could not be countenanced in law. The Supreme Court came to the following conclusions: -

"9…That apart, 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 acknowledgements in respect of other bidders and the absence of any glitch in the technology would strongly indicate that the 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 confer on the said respondent a second opportunity, which cannot be countenanced.*
>
> *10. In the above view of the matter, we are inclined to take the view that the High Court was not correct in issuing the directions extracted above as contained in paragraph 29 of the impugned judgment/order dated 28-9-2017. The same are, therefore, interfered with. The appeal is allowed accordingly."*

22.4 This Court also finds support from the decision of the Hon'ble Calcutta High Court in ***City Mall Vikas Private Limited*** (supra), wherein it was held that once the tender conditions expressly cast responsibility for bidder-side technical failures upon the participant and no fault was attributable to the auctioning authority, the concluded auction process could not be reopened merely because the bidder was unable to participate owing to technical difficulty at its own end.

22.5 Therefore, as petitioner has failed to establish that the interruption complained of was attributable to any malfunction on the platform operated by MSTC and in absence of any material to establish arbitrariness, *mala fides*, bias or irrationality in the conduct of the e-auction of the Notified Limestone Block and the subsequent declaration of respondent no. 4 as the preferred bidder, the first test of ***Jagdish Mandal*** (supra) stands answered against petitioner.

b) Second Test of *Jagdish Mandal* (supra) :

23. The second question which falls for consideration is whether, notwithstanding the above findings, overriding public interest warrants interference with the concluded auction process.

23.1 Learned Senior Counsel appearing for the petitioner submitted that even assuming *arguendo* that the alleged technical glitch has not been established as attributable to any malfunction on MSTC platform, this Court ought to exercise its extraordinary jurisdiction under Article 226 of the Constitution in larger public interest because acceptance of respondent No.4's final bid of 40.05%, despite petitioner having expressed its willingness to bid at 50% if resumption is ordered, will result in loss of approximately ₹550 crores to the public exchequer.

Learned Senior Counsel contended that, in the facts of the present case, the appropriate relief would be to direct resumption of the auction or to order a fresh auction. In support of the aforesaid submission, reliance has been placed upon the decisions in ***SMO Ferro Alloys Pvt. Ltd.*** (supra), ***Vedanta Limited*** (supra), ***Omsairam Steels*** (supra) and ***Ceigall India*** (supra).

Reliance has also been placed upon the decisions of the Hon'ble Supreme Court in ***Kasturi Lal Lakshmi Reddy*** (supra), ***Harinarayan Jaiswal*** (supra) and ***Rajasthan Housing Board*** (supra) to contend that the Government is not bound to accept the highest bid merely because the bidding process has concluded and retains the discretion to reject an inadequate offer in larger public interest.

Petitioner has also placed reliance upon ***Sigma Minerals Limited*** (supra) and ***JSW Cement Limited*** (supra) to contend that declaration of a bidder as the "Preferred Bidder" does not confer any crystallized or vested right in its favour and the State Government retains the power, in appropriate cases to annul or discontinue the tender process.

23.2 This Court, however, finds that all of the aforesaid decisions relied upon by petitioner arose in materially different factual settings and are distinguishable on facts.

23.3 In ***Vedanta Limited*** (supra), MSTC itself had confirmed that a server-side error had occurred and accepted that the bidder had been prevented from submitting its revised bid due to a technical issue attributable to the platform. It was in those circumstances that the respondent authorities decided to resume the auction from the stage at which the interruption had occurred, and said decision was upheld by the Hon'ble Bombay High Court at Goa as one intended to preserve fairness in the bidding process and taken in public interest. However, in the matter at hand, respondent No.3 has consistently denied any malfunction of the auction platform and the material placed on record does not establish otherwise.

In ***SMO Ferro Alloys*** (supra), which again concerned challenge to tender process on account of inability to submit a bid due to technical errors, Coordinate Bench of this Court found that petitioner therein had been prevented from submitting its bid due to circumstances beyond its control, its *bona fides* remained unquestioned and there were no allegations of suppression, misrepresentation or lack of candour on the part of any of the parties. The decision, therefore, turned upon the factual conclusions recorded in that case and cannot be read as laying down a general proposition that every allegation of technical difficulty must necessarily result in an order directing resumption or re-auction.

Similarly, reliance upon ***Omsairam Steels & Alloys*** (supra) and ***Ceigall India Ltd.*** (supra) is also misplaced. Both the aforesaid decisions dealt with inadvertent clerical or typographical errors committed by the bidders while submitting their bids. In ***Omsairam Steels*** (supra), the Hon'ble Supreme Court invoked the doctrine of proportionality to relieve the bidder from the harsh consequence of forfeiture of the bid security. Following said decision, the Hon'ble Delhi High Court in ***Ceigall India*** (supra) also moulded the relief where the error was confined to omission of the word "Crores" while the bid amount itself was correctly entered in figures. Neither decision involved any allegation of technical malfunction of the e-auction platform or the reopening of a concluded auction on that ground of technical glitch.

23.4 Insofar as the cases relied upon to demonstrate that the State retains the power to reject bids if found inadequate are concerned, in ***Harinarayan Jaiswal*** (supra) and ***Rajasthan Housing Board*** (supra), the concerned State Governments had themselves taken a conscious administrative decision not to proceed with the concluded auction or tender on the ground that the consideration offered was inadequate or otherwise not conducive to public interest. The issue before the Courts was whether such administrative decisions warranted interference. Similarly, in ***Kasturi Lal Lakshmi Reddy*** (supra), the challenge was directed against the action of the State in directly awarding a contract to private respondents therein, with a view to promote state industrialization, without inviting tenders, and the challenge concerned the validity of the same.

The principle emerging from aforesaid decisions is that the State has the discretion to take decisions, including setting aside / annulling of concluded tender / auction proceedings, which it considers to be in public interest.

23.5 In the present case, no such decision has been taken by the State Government. On the contrary, the State has consistently defended the auction process and has maintained that it was conducted fairly, transparently and strictly in accordance with the statutory framework and the Tender Document. Aforesaid decisions do not lay down that Courts, in exercise of writ jurisdiction, can compel the State to reopen or re-auction a validly concluded tender merely because the unsuccessful bidder subsequently claims to place a higher bid. The cases are, therefore, distinguishable on facts and do not apply to the circumstances at hand.

23.6 It is pertinent to note that the notional loss of approximately ₹550 crores quantified by petitioner is entirely hypothetical and rests upon a number of assumptions, including that the entire mineral reserve would be extracted over the expected life of the mine and that the prevailing price would remain constant throughout such period. The fact that certain other blocks in the geographical vicinity had fetched higher premiums does not establish that the Notified Limestone Block would necessarily have fetched a similar premium. Rather, in counter to such submission, the respondents have pointed out that similar blocks have been auctioned on much lower percentage. The figure of ₹550 crores, therefore, cannot be treated as an immediate or certain loss to the public exchequer.

23.7 The Hon'ble Delhi High Court, while dealing with a similar contention in ***Jindal Steel*** (supra), rejected the submission that the alleged loss to the public exchequer, computed on the basis of hypothetical future bids, by itself justified reopening of a concluded auction. The Court observed that such calculations necessarily proceed on dynamic commercial variables incapable of precise determination and cannot constitute a ground for unsettling an otherwise valid auction process. This Court respectfully concurs with aforesaid reasoning.

23.8 The decision in ***JSW Cement Limited*** (supra), relied upon by learned Senior Counsel for the petitioner, does not, in the considered opinion of this Court, advance the case of petitioner. In that case, Coordinate Bench of this Court proceeded to direct resumption of the auction *inter alia* having regard to the higher offer subsequently made by the bidder and with a view to avoid loss to the exchequer, as the Court observed that adjacent blocks had fetched higher bids. The approach adopted therein must, however, be considered in the light of the subsequent decision of the Hon’ble Delhi High Court in ***Jindal Steel*** (supra), which emphasised the importance of maintaining the sanctity and finality of a concluded e-auction. The Hon’ble Delhi High Court cautioned that permitting a bidder to seek reopening of a concluded auction on the basis of a higher offer made after closure of the bidding process would introduce uncertainty and amount to providing a second opportunity to unsuccessful bidders.

23.9 This Court is of the opinion that the concept of public interest in contractual and tender matters is multi-faceted and cannot be reduced to a single consideration of revenue maximisation. The concept also encompasses within its purview the elements of certainty, transparency, fairness, predictability and finality in auction proceedings and allocation of natural resources.

23.10 On the other hand, acceptance of petitioner's submission would have consequences extending far beyond the present dispute. If every unsuccessful bidder were permitted to seek reopening of a concluded auction by subsequently offering a higher price, the certainty and credibility of public auctions would stand eroded. Confidence of bidders would diminish, concluded auctions would remain perpetually vulnerable to challenge, and the finality essential to such matters would be impaired. Such a consequence, in the considered opinion of this Court, would itself run contrary to public interest.

23.11 The Constitution Bench of the Hon'ble Supreme Court in ***Natural Resources Allocation, In re, Special Reference No.1 of 2012*** (supra) recognised that the constitutional mandate is not that every public resource must invariably be disposed of by adopting the method which promises the highest possible return. What Article 39(b) requires is that the method adopted should serve the common good. The choice of method remains within the domain of the State, subject to the touchstone of fairness, transparency and public interest. Revenue, though important, is therefore only one of the considerations informing governmental action and not an overriding constitutional command.

23.12 The same approach is discernible in the later decisions of the Hon'ble Supreme Court. In ***Prakash Asphaltings & Toll Highways (India) Ltd.*** (supra), the Court cautioned that public interest in tender matters cannot be viewed exclusively through the prism of securing a higher financial offer; upholding tender rules, fairness, and predictability is equally paramount. Similarly, in ***City & Industrial Development Corporation of Maharashtra Ltd.*** (supra), the Hon'ble Supreme Court held that when a contract is evaluated, the mere possibility of more money in the public coffers does not in itself serve public interest. Blanket claims of revenue loss cannot be used by the State to arbitrarily resile from executed contractual obligations. Relevant paragraph is reproduced herein below:

> *"78. At this juncture, it is pertinent to remember that, by merely using grounds of public interest or loss to the treasury, the successor public authority cannot undo the work undertaken by the previous authority. Such a claim must be proven using material facts, evidence and figures. If it were otherwise, then there will remain no sanctity in the words and undertaking of the Government. Businessmen will be hesitant to enter government contract or make any investment in furtherance of the same. Such a practice is counter-productive to the economy and the business environment in general."*

23.13 The same principle has been reiterated in ***M.P. Power Management Company Ltd.*** (supra). More recently, in ***Golden Food Products India*** (supra), the Hon'ble Supreme Court recognized that public interest demands not only fairness in the conduct of public tenders, but equally, certainty and finality in their outcomes. If concluded tenders are set aside merely because a higher price was expected by the competent authorities, the integrity of the tender process would stand compromised. The relevant observations in Golden Food Products (supra) are reproduced hereinbelow:

> *"32. An auction process has a sanctity attached to it and only for valid reasons that the highest bid can be discarded in an auction which is otherwise held in accordance with*

law. If a valid bid has been made which is above the reserve price, there should be a rationale or reason for not accepting it. Therefore, the decision to discard the highest bid must have a nexus to the rationale or the reason. Merely because the authority conducting the auction expected a higher bid than what the highest bidder had bid cannot be a reason to discard the highest bid. In the instant case, no other party had placed a bid higher than the appellant herein. There was no infirmity in the conduct of the auction. No other party had complained about the process of auction conducted by the GDA - respondent No. 2. The bid offered by the appellant herein was the highest and above the reserve price. In the circumstances, the said bid ought to have been accepted by GDA - respondent No. 2 rather than cancelling the same without notice to the appellant herein. Hence, the cancellation of the bid submitted by the appellant herein is quashed."

23.14 For all the aforesaid reasons, this Court is unable to hold that the second test of ***Jagdish Mandal*** (supra) is satisfied. Petitioner has failed to demonstrate that overriding public interest requires this Court to unsettle the concluded auction proceedings. On the contrary, in the facts of the present case, public interest is better served by preserving the certainty and finality of an auction which has been conducted in accordance with the Tender Document and in respect whereof no arbitrariness, *mala fides* or procedural unfairness has been established.

V. Conclusion :

24. Having bestowed its anxious consideration upon the rival submissions of the parties and upon the material placed on record, this Court is of the considered opinion that petitioner has failed to make out a case warranting interference under Article 226 of the Constitution.

24.1 Petitioner though participated in the e-auction with *bona fides* and genuine intent to take the bid ahead, however, petitioner has failed to establish that the interruption was attributable to any malfunction of the e-auction platform operated by MSTC.

24.2 The Technical Report, prepared by the expert technical committee of MSTC, offers a coherent and reasoned explanation, attributing the interruption to network instability at petitioner's end during the DSC authentication stage. The findings of the report are supported by surrounding circumstances, and read with Clause 1.12 of the Tender Document, lead to the conclusion that the responsibility for the interruption cannot be shifted upon MSTC. The foundational premise of the writ petition, therefore, remains unestablished.

24.3 This Court has further found that no arbitrariness, *mala fides*, bias or unreasonableness has been established and the auction was conducted in accordance with the statutory framework and the conditions of the Tender Document. The first test laid down in ***Jagdish Mandal*** (supra) is, therefore, answered against petitioner.

24.4 Petitioner has equally failed to establish any overriding public interest warranting interference with the concluded auction. The alleged loss to the public exchequer is hypothetical and rests upon assumptions. The second test of ***Jagdish Mandal*** (supra) also, therefore, is answered against petitioner.

24.5 The Hon'ble Supreme Court in ***Muthyala Saibaba Suryanarayana Murthy*** (supra) observed that issuance of a writ of mandamus presupposes the existence of a judicially enforceable legal right in favour of petitioner and a corresponding legal duty on the part of the respondent. The Hon'ble Court held that where the disadvantage suffered by a person is attributable to his own inability to act within the prescribed framework, no enforceable legal right arises merely because an adverse consequence has followed. The relevant observations are reproduced hereinbelow: -

> *"16. Almost half a century back, this Court in Mani Subrat Jain v. State of Haryana had sounded a word of caution as follows:*
>
> > *"9. … It is elementary though it is to be restated that no one can ask for a mandamus without a legal right. There must be a judicially enforceable right as well as a legally protected right before one suffering a legal grievance can ask for a mandamus. A person can be said to be aggrieved only when a person is denied a legal right by someone who has a legal duty to do something or to abstain from doing something. …"*
>
> *17. …The first respondent had neither sustained any injury to any legally protected interest nor had he been subjected to a legal wrong. He did not suffer a legal grievance and had no legal peg for a justiciable claim to hang on. Thus, not having a legally protected right which could have been judicially enforced by seeking a mandamus, the writ petition of the first respondent was plainly not maintainable and, thus, the Single Judge rightly dismissed the same.*
>
> *18. The Division Bench, in course of its interference with the order dismissing the writ petition, failed to realise that in exercise of writ powers under Article 226 of the Constitution, the high courts of the country do not come to the aid of the tardy, the indolent, and the lethargic. This golden truth has to borne in mind by all courts exercising high prerogative writ jurisdiction. While mandamus will issue to reach injustice, wherever found, it is equally true that exercise of discretion should not unnecessarily be coloured by considerations of sympathy or grace or compassion or charity. These are beyond the scope of the high courts' writ powers. In cases such as these, where acceptable justification for the failure to act with expedition is not proffered, the high courts should stay at a distance."*

24.6 Applying the aforesaid principle, this Court also finds that petitioner has failed to establish any enforceable legal right to seek resumption or re-auction of the bidding process. Equally, no corresponding legal duty upon the respondents to reopen a concluded auction has been demonstrated. In the absence of either, no writ of mandamus can be issued.

25. Accordingly, present writ petition, being devoid of merits, deserves to be, and is hereby, **dismissed**.

26. Stay application and all other pending applications, if any, stand disposed of.

(SANJEET PUROHIT),J

37-shashikant/-