

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

Present:

The Hon'ble Justice Krishna Rao

WPA No. 6237 of 2026

I-Net Secure Labs Private Limited & Anr.

Versus

Election Commission of India & Ors.

Mr. Abhrajit Mitra, Sr. Adv.
Mr. Anubhav Sinha
Mr. Sumanta Biswas
Mr. Bikash Shaw
Mr. Sk. Saad Nafisol Islam

.....For the petitioners.

Mr. Soumendra Nath Mookherjee, Sr. Adv.
Mr. Soumya Majumder, Sr. Adv.
Ms. Anamika Pandey
Mr. Naman Choudhury
Mr. Ghanshyam Pandey

.....For the respondent no. 1.

Mr. Anirban Ray, Sr. Adv.
Mr. Paritosh Sinha
Mr. Shounak Mukhopadhyay

Mr. Saubhik Chowdhury

Ms. Suchisattwa Mallick

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

Mr. Sabyasachi Choudhury

Ms. Sanjukta Dutta

Mr. Shreyan Bhattacharyya

.....For the respondent no. 5.

Ms. Vineeta Meharia, Sr. Adv.

Mr. Amit Meharia

Ms. Paramita Banerjee

Mr. Rohan Raj

Mr. Tamoghna Chattopadhyay

.....For the respondent no. 6.

Hearing Concluded On : 20.03.2026

Judgment On : 25.03.2026

Krishna Rao, J.:

1. The petitioners have filed the present writ petition praying for setting aside the Request For Proposal (RFP) for selection of an Agency for providing a Surveillance System for Live Web Streaming (Audio, Video, Record, Viewing, CCTV and other Services) for the General Election to West Bengal Legislative Assembly, 2026. Subsequently by way of supplementary affidavit, the petitioners pray for the same relaxation accorded to the added respondents by allowing the petitioners to participate in the RFP dated 9th February, 2026 for West Bengal Assembly Election, 2026 and not pressed prayer (b) of the writ petition.

2. The respondent no.2 issued a tender in the online portal of the E-procurement System of the Government of West Bengal of the above mentioned work dated 9th February, 2026. The petitioner company has participated in the said tender process.
3. The petitioners are aggrieved with Clause 4(a) and 4(b) of the Eligibility Criteria which reads as follows:

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| 4. | Bidder's Experience | <p>a) Bidder should have executed live election web streaming (IP based HD CCTV cameras-based audio & video from multiple locations) orders cumulatively totaling in not less than 1,30,000 cameras for web streaming at Polling Stations and at least 3000 CCTV camera in counting in India for CEO office or any Government Departments/ PSUs and Government Agencies on behalf of Election Commission of India during the 3 financial years from the date of RFP (2023-24, 2024-25 and 2025-26).</p> <p>b) Bidder should have executed at least 3 full state orders of live web streaming (IP based HD CCTV cameras-based audio & video from multiple locations) for web streaming of Elections in different states of India on behalf of Election Commission of India during 3 years from date of issue of RFP (2023-24, 2024-25 & 2025-26).</p> <p>Consortium, joint Ventures, UT or Local body experience not allowed. In case of consortium, Only Prime Bidder experience allowed.</p> | <p>Copies of the Work order or completion certificate for orders cumulatively totaling in not less than 1,30,000 cameras for web streaming at Polling Stations and 3000 cctv counting cameras in India to be submitted from the concerned Government Departments/ PSUs and Government Agencies.</p> <p>Copy of the work order(s) or agreement from the customer should be submitted.</p> |
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- 4.** Mr. Abhrajit Mitra, Learned Senior Advocate representing the petitioners submits that altogether four firms have participated in the tender process including the petitioners but the respondent authorities have rejected the technical bid of the petitioner on 28th February, 2026 as “Technically Not Qualified”.
- 5.** Mr. Mitra submits that the other three firms being the added respondent nos. 4, 5 and 6 are also not having the eligibility criteria but the respondent authorities have accepted their technical bid. He submits that the respondent no.4 is not having the experience of three full state orders of live web streaming during three years i.e. 2023-2024, 2024-2025 and 2025-2026.
- 6.** Mr. Mitra submits that the respondent no. 5 has submitted experience of full three State work orders as per Clause 4(b) of the eligibility criteria out of which one is of State of Tamil Nadu and another two are Union Territory of Delhi but as per explanation of Clause 4(b), experience of Union Territory is not applicable, thus the respondent no. 5 is not having eligibility criteria of full three State but the respondents have accepted the experience certificate of respondent no.5.
- 7.** Mr. Mitra submits that the respondent no.5 has submitted experience certificate in respect of Clause 4(a) and shown that the respondent no. 5 has executed live election web streaming of 2,09,794 cameras out of which two experience certificate is of Delhi and with respect to Bihar, the respondent has not submitted any certificate of the said work. He

submits that if the number of cameras of Delhi and Bihar is deleted, total cameras would be less than 1,30,000/- but even the respondent authorities have accepted the tender of the respondent no.5.

- 8.** Mr. Mitra submits that the respondent no. 6 has provided the experience certificate of 34634 cameras provided to the office of the Chief Electoral Officer at Bihar but no certificate is submitted as provided in the said Cause even then the respondents have considered the tender submitted by the respondent no. 6. He further submits that if 34634 cameras is deleted, the total number of cameras will be less than 1,30,000/-.
- 9.** Mr. Mitra submits that the respondent no.6 has submitted experience certificate as per Clause 4(b) of the eligibility criteria of the work executed in the State of Mizoram and Andhra Pradesh. He has pointed out that as per the experience certificate of State of Mizoram, the respondent no.6 has completed only 60% of the work though as per conditions the bidder has to complete 100% work. He further submits that with respect to the works executed at Andhra Pradesh, the respondent no. 6 has only executed the said work in Andhra Pradesh Legislative Council and not full state but the respondents have accepted the tender documents of the respondent no.6.
- 10.** Mr. Mitra submits that the petitioners have submitted documents that the petitioners are having the experience of live streaming web camera for more than 1,30,000/-. He submits that as per documents

submitted by the petitioners with respect to total live streaming web camera is 1,42,138 and if cameras of Puducherry and Daman is deleted then also it will be more than 1,30,000/- but the respondents have not considered the documents submitted by the petitioners.

11. Mr. Mitra submits that as regard to the criteria of 4(b) is concern, the petitioners have submitted the work experience certificate of the State of Kerala, Puducherry and Daman but have not considered the same though the respondent authorities have considered the certificate of the private respondents with respect of NCT Delhi.
12. Mr. Mitra submits that in Clause 24(a) of the tender documents, it is mentioned that the respondent authorities reserved their right to award the work order to more than one bidder that matches L1 rate and meets the required technical criteria, in that case, the respondents would have been considered the case of the petitioners as the rate quoted by the petitioners, is matches with the L1.
13. Mr. Mitra relied upon the judgment in the case of ***Banshidhar Construction Private Limited Vs. Bharat Cooking Coal Limited and Others*** reported in ***(2024) 10 SCC 273*** and submits that if the Court finds that the decision taken by the respondents is grossly arbitrary, illegal, discriminative and violative of Article 14 of the Constitution of India, the Court can interfere with the said decision of the authorities.

- 14.** Mr. S.N. Mookherjee, Learned Senior Advocate representing the Election Commission of India submits that the writ petition is not maintainable as the petitioners have suppressed the material facts in writ petition. He submits that before participation in the tender process a pre-bid meeting was held on 16th February, 2026 in the office of the Chief Electoral Officer and suggested for inclusion of Union Territory in Clause 4(b) and deletion of Union Territory in explanation of Clause 4(b). He submits that the suggestion of the petitioners was not considered by including Union Territory in Clause 4(b) and deleting Union Territory explanation Clause of 4(b). He submits that the petitioners have suppressed the said fact in the writ petition. He submits that as per Clause 4 of the RFP, the interpretation of the clauses by the Chief Electoral Officer shall be final and binding on the bidder.
- 15.** Mr. Mukherjee submits that inspite of having the knowledge that the petitioners are not having experience in full three States and experience of Union Territory will not be considered as experience. He submits that as per Request for Proposal, the date of uploading of Technical Bid is 24th February, 2026 and opening of Financial Bid is 26th February, 2026. The technical bid of the petitioners was rejected on 28th February, 2026 but the petitioners have filed the present writ petition on 11th March, 2026 and on 13th March, 2026, work orders have already issued in favour of the respondent nos. 4 to 6.

- 16.** Mr. Mukherjee submits that after pre-bid meeting, the respondent authorities have issued corrigendum to the e-Tender notice on 20th February, 2026 but the petitioners have not challenged the said corrigendum.
- 17.** Mr. Mukherjee relied upon Article 239AA of the Constitution of India and submits that by way of sixty-ninth amendment on 1st February, 1992, a Special Provision with respect to Delhi is incorporated and a Legislative Assembly is declared. He submits that after insertion of Article 239AA of the Constitution of India, the National Capital Territory of Delhi is not similar to other Union Territories.
- 18.** Mr. Mukherjee submits that Clause 4 of Article 239AA of the Constitution of India provides that there shall be a Council of Ministers consisting of not more than ten percent of the total number of members in the Legislative Assembly, with the Chief Minister at the head to aid and advise the Lieutenant Governor in the exercise of his functions in relation to matters with respect to which the Legislative Assembly has power to make laws, except in so far as he is, by or under any law, required to act in his discretion. He submits that being the situation that the National Capital Territory of Delhi is not similar to the other Union Territories and is deemed to be the State, thus the authorities have considered the experiences of the private respondents executed at Delhi as State.

- 19.** In support of his submissions, he has relied upon the judgment in the case of ***Government of NCT of Delhi Vs. Union of India*** reported in ***(2023) 9 SCC 1***.
- 20.** Mr. Mukherjee submits that by way of Corrigendum dated 20th February, 2026, is amended by Clause 4(b) deleting the word “different” States of India and incorporated the figure “3” States of India but UT is not deleted. He submits that the petitioners have not disclosed all documents of the respondent no. 5 with respect to the work executed in Bihar election. He submits that before the year 2025 in none of the States installed 100% live streaming web camera at the time of election. In the present case, the authorities have considered the experience certificate as completion of 100% work to the total live streaming camera installed in the said State, it might be in the said state only 50% or 60% cameras were installed for election purpose.
- 21.** Mr. Mukherjee submits that the authorities have already completed the tender process and work orders have already been issued in favour of the respondent nos. 4, 5 and 6.
- 22.** Mr. Anirban Ray, Learned Senior Advocate representing the respondent no.4 by adopting the submissions of Mr. Mukherjee submits that once the petitioners have participated in the tender process and it could not succeed in the said tender process, now the petitioners cannot challenge the tender process.

- 23.** Mr. Ray by pointing out the statement made in paragraphs 12(d), 14 and 15 of the writ petition submits that the petitioners after knowing the terms and conditions of the tender document, have participated in the tender and now the same terms have been challenged in the present writ petition. In support of his submissions, he has relied upon the judgment in the case of ***National High Speed Rail Corporation Limited Vs. Montecarlo Limited and Another*** reported in ***(2022) 6 SCC 401***.
- 24.** Mr. Ray submits that the respondent no.4 has submitted experience certificate and work order for the work of installation of 1,30,000 cameras for web streaming at polling stations and 3000 cameras for counting during three years in Lok Sabha Election 2024 of Punjab, State Assembly election of Tripura, Lok Sabha election of Karnataka and General Lok Sabha election of Nagaland, Lok Sabha election of Maharashtra, Lok Sabha election of Meghalaya, Madhya Pradesh and Uttarakhand.
- 25.** Mr. Ray submits that on completion of tender process and acceptance of the tender of the petitioners as L1 work order has also issued in favour of the petitioners. Mr. Ray in support of his submissions, has relied upon the judgment in the case of ***Tata Motors Limited Vs. Brihan Mumbai Electricity Supply and Transport Undertaking (Best) and Others*** reported in ***(2023) 19 SCC 1*** and submits that power of judicial review in the matter as to tenders or award of contracts, certain special features should be borne in mind that

evaluations of tenders and awarding of contracts are essentially commercial functions and principles of equity and natural justice stay at a distance in such matters. If the decision relating to award of contract is bona fide and is in public interest, courts will not interfere by exercising powers of judicial review even, if a procedural aberration or error in assessment or prejudice to a tenderer is made out. He also relied upon the judgment in the case of **Subir Ghosh Vs. State of West Bengal and Others** reported in **2020 SCC OnLine Cal 2213** and submits that if a prospective bidder finds the terms of the tender documents to be unfair or illegal and challenges the same, but such challenge has to be before the time to put in the bids is closed. At any rate, if a bid is made and the bid is thrown out on an illegal or unfair ground contained in the tender documents, even then, a challenge can be fashioned.

- 26.** Mr. Sabyasachi Choudhary, Learned Senior Advocate representing the respondent no.5 by adopting the submissions of Mr. Mukherjee submits that Delhi is different from other Union Territories having Assembly deemed to be the State, thus the respondents have rightly considered the experience certificate of the respondent no. 5. He submits that the respondent no.5 has given the details of the experiences with regard to 1,30,000/- live streaming cameras and 3000 CCTV cameras in counting stations. He submitted that the petitioners have executed work with the respondent no.4 in the state of Andhra Pradesh but the petitioners have obtained certificate in its name.

- 27.** Mr. Choudhury relied upon the experience certificate dated 6th December, 2024, issued by the Chief Electoral Officer, Andhra Pradesh wherein it certified that the respondent no.5 along with the petitioners, have been awarded with the work of live streaming of poll proceeding wherein both have used 44,790 cameras in the Andhra Pradesh Lok Sabha Legislative Election 2024 but the petitioner has shown his experience of 44,790 cameras. He submits that the tender process is over and work order is also issued to the respondent no.5.
- 28.** Ms. Vineeta Meharia, Learned Senior Advocate representing the respondent no.6 submits that the respondent no.6 has submitted required experience certificate to prove that the respondent no.6 has executed work by providing 1,69,336 of live streaming cameras at the Polling stations at Andhra Pradesh, Bihar, Assam and Telangana during the last three years.
- 29.** Ms. Meharia submits that as regard to Clause 4(b), the respondent no.6 has submitted work completion certificate of Assam, Chandigarh, Mizoram and Andhra Pradesh. She submits that before 2025 i.e. Bihar Election in nowhere 100 % election was conducted under the CCTV surveillance. She has relied upon the instructions of the Election Commission wherein it was decided that arrangements of web casting shall be done in all critical polling stations and all polling stations in venerable areas or at least 50% of the total polling stations.

30. Ms. Meharia submits that as none of the state before 2025 have used 100% CCTV surveillance, thus if only in a state if 50 % CCTV surveillance is provided, the same is taken as 100% of the said State. She further submits that the documents submitted by the respondent no.6 was accepted by the authorities and work order has also issued in favour of the respondent no.6.

31. Though the petitioner in prayer (b) of the writ application has challenged the Request For Proposal being No. CEOWB/2026/E-TENDER/002/ SURVEILANCE SYSTEM LIVE WEB STREAMING dated 9th February, 2026 and prayed for setting aside the said RFP but during reply, the Mr. Abhrajit Mitra, Learned Senior Advocate with Mr. Anubhav Sinha Learned Advocate representing the petitioners not pressed prayer (b) of the writ petition and prayed for a direction upon the respondent authorities for providing equal benefits to that of the respondent nos. 5 and 6 as the petitioners are also having the similar experience to that of the respondent nos. 5 and 6.

32. The petitioners have submitted the details of experience with respect to Clause 4(a) of the Eligibility Criteria which reads as follows:

Bidders Experience (S.no : 4 a- Execute Live Web streaming orders cumulative of not less than 1,30,000 CCTV Camera in Polling Station)

| S. No | Financial Year | Project Name | Name of concerned Govt. Agency/ Department/ Government | Total Project/ contract Value in Rs. | Contract Award Date and Work completion Date (WCD) | Polling Camera Count | Page Number |
|--------------|-----------------------|---------------------|---|---|---|-----------------------------|--------------------|
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| | | | Agencies/ Govt. aided agencies | | | | |
|---|----------|--|--|-----------------|---|-------|---------|
| 1 | FY 23-24 | <i>Election Department- Webcasting and related services for General Election to Parliamentary Constituencies 2024- State of Kerala- work order</i> | <i>Chief Electoral Officer & Secretary to Government, Kerala</i> | 1,05,51,60,222 | <i>Order Dated 28-03-2024 WCD: 07.08.2024</i> | 28747 | 139-145 |
| 2 | FY 23-24 | <i>Elections- Selection of Agency for providing a Surveillance System (Live Webcasting Streaming (Audio, Video, Record, Viewing, CCTV & other services) at various locations (Polling Stations & Check posts) across the State of Andhra Pradesh</i> | <i>OFFICE OF THE CHIEF ELECTORAL OFFICER ANDHRA PRADESH</i> | 53,94,90,194.00 | <i>Order Dated: 12-03-2024 WCD: 19.09.2025</i> | 44790 | 146-147 |
| 3 | FY 23-24 | <i>Work Order for providing a Surveillance System (Live Web Streaming (Audio, Video, Record, Viewing, CCTV &</i> | <i>Office of Chief Electoral Officer,</i> | 20,18,51,260 | <i>Order Dated: 11-10-2023</i> | 12932 | 148-151 |

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| | | <i>other Services) for the Assembly Election 2023 and the Lok Sabha Election 2024 for the Madhya Pradesh State.</i> | <i>Madhya Pradesh</i> | | <i>WCD: 28-02-2024</i> | | |
| 4 | FY 24-25 | <i>Work order for providing a Surveillance System (Live Web Streaming (Audio, Video, Record, Viewing CCTV & other Services) for the Assembly Election 2023 and the Lok 2024 for the Madhya Pradesh State.</i> | <i>Office of Chief Electoral Officer, Madhya Pradesh</i> | <i>22,07,36,470</i> | <i>Order Dated: 11-10-2023 WCD: 08-11-2024</i> | <i>15234</i> | <i>148-152</i> |
| 5 | FY 23-24 | <i>Webcasting and related services for General Election to Karnataka Legislative Asssembly-2023 in Belagavi Division – reg</i> | <i>Office of Chief Electoral Officer, Karnataka</i> | <i>13,62,00,781.10</i> | <i>Order Dated: 06-04-2023 WCD: 27-06-2023</i> | <i>8014</i> | <i>153-155</i> |
| 6 | FY 23-24 | <i>Webcasting and related services for General Election to Karnataka Legislative Assembly-</i> | <i>Office of Chief Electoral Officer, Karnataka</i> | <i>12,09,90,990.40</i> | <i>Order Dated: 06-04-2023</i> | <i>6467</i> | <i>156-158</i> |

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| | | 2023 in Kalaburagi Division-reg | | | WCD: 27- 06-2023 | | |
| 7 | FY 24-25 | Live Webcasting and recording of Maharashtr a Vidhan Sabha Elections 2024” for Hosting of the web based streaming software, Live streaming and recording of the polling at Polling Station, Live Streaming and Recording of the counting Process, setting up Help Centre & Deployment of Manpower and Developmen t of Training Material etc. in Thane District of Maharashtr a | ITI LIMITED (THANE) | 9,47,50, 914 | Order Dated: 19-11- 2024 WCD: 19.09.20 25 | 10504 | 159-160 |
| | | Live Webcasting and recording of Maharashtr a Vidhan Sabha Elections 2024” for Hosting of the web based streaming software, | ITI LIMITED (NASHIK) | 1,94,74, 939.00 | Order Dated: 19-11- 2024 WCD: 20- | 6560 | 161-163 |

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| 8 | FY 24-25 | Live streaming and recording of the polling at Polling Station, Distribution & Collection Centres, Live Streaming and Recording, setting up Help Centre & Deployment of Manpower and Development of Training Material etc. in Nashik District of Maharashtra | | | 12-2024 | | |
| 9 | FY 24-25 | Election Department-Bye Election 2024-Webcasting and related services-State of Kerala-Work Order – reg | Chief Electoral Officer & Secretary to Government | 6,90,85,461 | Order Dated : 30-10-2024 WCD: 05-12-2024 | 2627 | 164-170 |
| 10 | FY 23-24 | Work order for the execution of Live Web Streaming of poll proceedings on the polling day for the General Election to Lok Sabha 2024 in Ahmednagar District | District Collector's Office, Ahmednagar | 67,33,536 | Order Dated: 21-03-2024 WCD: 25.09.2024 | 1880 | 171-174 |
| | | Work order | | | | | |

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| 11 | FY 24-25 | for the execution of Live Web Streaming of poll proceedings on the polling day for the Lok Sabha Election 2024 in Latur District, Maharashtra | District Collector and District Election Officer, Latur | 84,94,632 | Order Dated: 12.04.2024 WCD: 21.05.2025 | 1050 | 175-176 |
| 12 | FY 24-25 | Work order for the execution of Live Web Streaming of poll proceedings on the polling day for the Vidhan Sabha Election 2024 in Latur District, Maharashtra | District Collector and District Election Officer, Latur | 1,75,61,089.00 | Order Dated: 23-04-2024 WCD: 21.05.2025 | 1227 | 177-180 |
| 13 | FY 24-25 | Elections GELS 2024- Provision of live streaming & recording of Prepoll day and Poll Day events at all Polling Stations in the UT of Puducherry during the conduct of GELS 2024- Issue of Work Order-Reg | Government of Puducherry Elections Department | 48,59,261.24 | Order Dated: 25-03-2024 WCD: 19-02-2025 | 1206 | 181-184 |
| | | Webcasting and related Services for | | | Order | | |

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| 14 | FY 24-25 | General Election to Lok Sabha-2024- Dadar & Nagar Haveli and Daman & Diu | Joint Chief Electoral Officer, Daman | 1,06,09,980.00 | Dated: 29.04.2024 WCD: 10.05.2024 | 900 | 185-186 |
| Total Number of Web Streaming Cameras Deployed for Polling | | | | | | 142138 | |

33. He submits that if experience of the petitioners with respect to the work executed in Puducherry and Daman is excluded even the total number of web streaming cameras deploying for polling would be 1,40,000/- which is much higher than the then required quantity.

34. As regard to the experience of Clause 4(b) of the Eligibility Criteria, the petitioners have submitted the following details which reads as follows:

Bidders Experience (S.no : 4 b- 3 full State web streaming on Behalf of ECI)

| S. No | Financial Year | Project Name | Name of concerned Govt. Agency/ Department/ Government Agencies/ Govt. aided agencies | Total Project/ contract Value in Rs. | Contract Award Date and Work completion Date (WCD) | Page Number |
|-------|----------------|---|---|--------------------------------------|--|-------------|
| 1 | FY 23-24 | Election Department- Webcasting and related services for General Election to Parliamentary Constituencies 2024- | Chief Electoral Officer & Secretary to Government, Kerala | 1,05,51,60,222 | Order Dated 28-03-2024 WCD: 07.08.2024 | 139-145 |

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| | | State of Kerala - work order | | | | | |
| 2 | FY 23-24 | Elections GELS 2024- Provision of live streaming & recording of Prepoll day and Poll Day events at all Polling Stations in the UT of Puducherry during the conduct of GELS 2024- Issue of Work Order-Reg | Government of Puducherry Elections Department | 48,59,261.24 | Order Dated: 25-03-2024 WCD: 19-02-2025 | 181-184 | |
| 3 | FY 24-25 | Webcasting and related Services for General Election to Lok Sabha-2024- Dadar & Nagar Haveli and Daman & Diu | Office of the Chief Electoral Officer & Secretariat - Daman | 1,06,09,980.00 | Order Dated: 29-04-2024 WCD: 10-05-2024 | 185-186 | |

35. The respondent no.5 has submitted details of the work executed with respect to Clause 4(a) of the Eligibility Criteria, which reads as follows:

4. Detail of bidder's experience with reference to the PQ/Eligibility Criteria

| Sl. No. | Project Name | Name of concerned Govt. Agency/ Department/ Government Agencies/ Govt. | No of IP Based HD CCTV Web casting Cameras | No of Counting Center CCTV Cameras | Total Project/ contract Value in Rs. | Contract Award Date And Work Completion Date | Relevant Certificates enclosed on Page No. of the PQ Bid | Relevant Clause details as per Eligibility Criteria |
|---------|--------------|--|--|------------------------------------|--------------------------------------|--|--|---|
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| | | aided agencies. | | | | | | |
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| 1 | 2023-2024 Installation and Implementation of Election Webcasting of polling CCTV monitoring services on Counting Day and Recording, Check Post activities, GPS Operations, and related services for the Telangana Assembly Election s- 2023 in the state of Telangana | The Chief Electoral Officer, Telangana | 18,599 | 1,368 | Rs. 26,51,37,469/- | Assembly Award Date: 19.10.2023 Completion Date: 03.12.2023 | Pg No. 48 | |
| 2 | Live Web Streaming of Poll proceeding on the day of polling stations, to monitor Check post activities and installed the IP | Chief Electoral Officer Madhya Pradesh | 13,276 | 958 | Rs. 20,33,64,268/- | Award Date: 11.10.2023 Completion Date: 03.12.2023 | Pg No. 49 | As per Eligibility Criteria Clause No. 4(a) |

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| | based HD CCTV Camera through the wired connectivity in counting hall for General Assembly Election-2023 in the State of Madhya Pradesh | | | | | | | |
| 3 | 2024-2025 Installation and Implementation of Election Webcasting of polling CCTV monitoring services of Counting Day and Recording, Check Post activities, GPS Operations, and related services for the General Election at Lok Sabha-2024 in the state of Telangana | The Chief Electoral Officer, Telangana | 25,728 | 1,062 | Rs. 39,75,73,753/- | Award Date: 28.03.2024 Completion Date: 04.06.2024 | Pg No. 50 | As per Eligibility Criteria Clause No. 4(a) |

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|---|--|---|--------|-------|--------------------|---|-----------|--|
| 4 | Live Web Streaming of Poll proceedings on the day of polling stations, to monitor Check post activities and installed the IP based HD CCTV Camera through the wired connectivity in counting hall for Parliamentary General Election-2204 | Chief Electoral officer, Madhya Pradesh | 15,601 | 1,060 | Rs. 24,59,46,848/- | Award Date: 11.10.2023 Completion Date: 04.06.2024 | Pg No. 51 | |
| 5 | Live Webcasting of Poll proceedings on the day of Poll and the day of counting for the General Elections to Lok Sabha 2024 | Chief Electoral Officer & Principal Secretary to Government, Tamil Nadu | 46,285 | 4,082 | Rs. 45,19,58,577 | Award Date: 16.03.2024 Completion Date: 04.06.2024 | Pg No. 52 | As per Eligibility Criteria Clause No. 4(a) |
| 6 | Installation and Implementation of Live Web Casting Solution and CCTV monitoring | Chief Electoral Officer Delhi | 13,720 | 2,136 | Rs. 14,70,52,601/- | Award Date: 27.03.2024 Completion Date: 04.06. | Pg No. 53 | |

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| | services (Audio & Video Recording, Viewing, CCTV & Others services) in NCT of Delhi on poll Day during General Elections to LOK-Sabha-2024. | | | | | 2024 | | |
| 7 | Installation and Implementation of Election Webcasting and Queue Management solutions in polling Stations in NCT of Delhi on poll Day during Legislative Assembly Elections- 2025 | Chief Electoral Officer Delhi | 29,215 | | | Rs. 23,96,95,636/- | Award Date: 14.12.2024 Completion Date: 08.02.2025 | Pg No. 54 |
| 8 | 2025-2026 Providing a Monitoring System (Live Web Streaming (Audio, Video, Record, Viewing, CCTV & | Chief Electoral Officer Bihar | 47,370 | 699 | | Rs. 40,89,05,836/- | Award Date: 15.10.2025 Completion Date: 14.11.2025 | Pg No. 55 to 69 |
| As per Eligibility Criteria Clause No. 4(a) | | | | | | | | |

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| | other Services) for General Election to Bihar Legislative Assembly' 2025. | | | | | | | |
| | Total Cameras | 2,09,794 | 11,365 | | | | | |

36. The respondent no.5 has submitted the following details of the work executed with respect to 4(b) of the Eligibility Criteria, which reads as follows:

| As per Eligibility Criteria Clause No. 4(b) - 3 Full State Work orders | | No of IP Based HD CCTV Webcasting Cameras | Total Project/ contract Value in Rs. | Contract Award Date and Work Completion Date | Relevant Certificates enclosed on Page No. of the PQ Bid | Relevant Clause details as per Eligibility Criteria |
|--|---|---|--------------------------------------|---|--|---|
| Project Name | Name of concerned Govt. Agency/ Department/ Government Agencies / Govt. aided agencies. | | | | | |
| 1 | 2024-2025 Live Webcasting of Poll proceedings on the day of Poll and the day of counting for the General Elections to Lok Sabha 2024 | 46,285 | Rs. 45,19,68,577 | Award Date: 16.03.2024 Completion Date: 04.06.2024 | Pg No. 52 | As per Eligibility Criteria Clause No. 4(b) |

| | | | | | | | |
|---|---|-------------------------------|---------------|--------------------|---|-----------|--|
| 2 | Installation and Implementation of Live Web Casting Solution and CCTV monitoring services (Audio & Video Recording, Viewing, CCTV & Others Services) in NCT of Delhi on poll day during General Elections to LOK-Sabha-2024. | Chief Electoral Officer Delhi | 13,720 | Rs. 14,70,52,601/- | Award Date: 27.03.2024 Completion Date: 04.06.2024 | Pg No. 53 | As per Eligibility Criteria Clause No. 4(b) |
| 3 | 2025-2026 Installation and Implementation of Election Webcasting and Queue Management solutions in polling Station in NCT of Delhi on poll day during Legislative Assembly Elections-2025 | Chief Electoral Officer Delhi | 29,215 | Rs. 23,96,95,636/- | Award Date: 14.12.2024 Completion Date: 08.02.2025 | Pg No. 54 | |

37. The respondent no.6 has submitted the following details with respect to the work executed in terms of Clause 4(a) of the Eligibility Criteria:

| S. No | Name of concerned Govt. Agency/ Department/ PSU | Project Name | Polling Cameras | Counting Cameras | Page Nos |
|--------------|--|---|------------------------|-------------------------|-----------------|
| 1 | Chief Electoral officer, Assam | Live Web Streaming work of IP Based Video Surveillance in the Polling Stations for General Elections in Assam – 2024 | 31520 | 0 | 257 |
| 2 | Chief Electoral officer, Assam | Live Web Streaming in the Polling Station for Bye Elections in Assam – 2024 | 1184 | 0 | 261 |
| 3 | Chief Electoral Officer, Andhra Pradesh- 2024 | Live Webcasting Streaming in the Polling Station & Check post for Lok Sabha and AP Legislative Assembly Elections 2024 | 27492 | 0 | 264 |
| 4 | BSNL- Telangana General Elections to HoP (Lok Sabha), 2024 | Supply, installation and commissioning of IP Based Video surveillance system including Live streaming and recording of the polling event at all polling booths, CCTVs for counting centers, strong rooms, check posts and related Services for Telangana General Elections to HoP (Lok Sabha), 2024 | 20392 | 1272 | (283,285) |
| 5 | BSNL – Telangana Legislative Assembly Elections – 2023 | Live streaming and recording of the polling at polling booths, CCTVs for counting centers and related Services for Telangana Legislative Assembly Elections – 2023 | 19319 | 1613 | 290,296 |
| 6 | ITI Limited, Chandigarh | Live Webcasting and Streaming of Events on Poll Day for the General Elections to Lok Sabha 2024 in Himachal Pradesh | 7161 | 0 | 292 |

| | | | | | |
|-----------|--|---|-------|-----|-----|
| 7 | <i>Chief Electoral Officer, Mizoram</i> | <i>Webcasting for the General Election to the Lok Sabha, 2024 in the State of Mizoram</i> | 765 | 0 | 301 |
| 8 | <i>AP CEO- MLC Elections 2025</i> | <i>Providing Surveillance system (Live Webcasting Streaming (Audio, Video, Record, viewing, CCTV & Other services at various locations (Polling Stations for Legislative Council.</i> | 2124 | 0 | 304 |
| 9 | <i>Office of Chief Electoral Officer of Bihar</i> | <i>Providing a Monitoring System (Live Web Streaming (Audio, Video, Record, Viewing, CCTV & Other Services) for General Elections to Bihar Legislative Assembly, 2025</i> | 34634 | 355 | 326 |
| 10 | <i>Commissioner & Secretary to the Govt. of Assam, Election Department</i> | <i>Video Streaming commissioning for each location with PTZ IP cameras, Internet connectively at SHQ, DHQ and Polling station, Cloud Storage for live streaming, local storage for offline video/ bandwidth lighting if required along with requisite manpower at sites, call centre facility at HQ, Network survey, dashboard, training of manpower dry test run etc. as per the scope and specifications mentioned in this RFP for the Polling Stations</i> | 13861 | 0 | 353 |
| 11 | <i>Government of Telangana Proceedings of the Commissioner of Panchayat Raj and Rural Employment</i> | <i>Supply, Installation and Commissioning of an IP Based Video Surveillance System, Including Live Streaming and recording of the Polling and Counting events at polling booths and related Services for Ordinary Elections to</i> | 10884 | 0 | 356 |

| | | | | | |
|--------------|--|---|---------------|-------------|--|
| | | <i>the Gram Panchayats, 2025 in Telangana State</i> | | | |
| Total | | | 169336 | 3240 | |

38. With respect to experience of 4(b) of the Eligibility Criteria, the respondent no. 6 has submitted the following details:

| S. No | Name of concerned Govt. Agency / Department/ PSU | Po. Ref. No. | Project Name | Page Nos |
|--------------|---|----------------------------------|--|-----------------|
| 1 | Chief Electoral Officer, Assam 2024 | PO. No. ELE.107/2023/125 | Live Web Streaming work of IP Based Video Surveillance in the Polling Stations for General Elections in Assam – 2024 PO. No. ELE. 107/2023/125 | 359-362 |
| 2 | ITI Limited Chandigarh | Po. No: ITICHHD/MKTG/24-25/01 | Live Webcasting and Streaming of Events on Poll Day for the General Election to Lok Sabha 2024 in Himachal Pradesh Po. No: ITICHHD/MKTG/24-25/01 | 363-366 |
| 3 | Chief Electoral Officer, Mizoram | Po. No: D.21019/1/2023-CEO | Webcasting for the General Election to the Lok Sabha, 2024 in the State of Mizoram Po. No: D.21019/1/2023-CEO | 367-369 |
| 4 | AP CEO–MLC Elections 2025 | Po. No: 2701992/Elecs.C/2025 | Proving Surveillance system (Live Webcasting Streaming (Audio, Video, Record, viewing, CCTV & Other | 370-385 |

| | | | | |
|--|--|--|--|--|
| | | | <i>services at various locations (Polling Stations) for the Biennial Elections to the AP Legislative Council, Po. No: 2701992/Elecs.C/2025</i> | |
|--|--|--|--|--|

- 39.** Mr. Mookherjee, Learned Senior Advocate representing the respondent authorities i.e. respondent nos. 1 to 3 submits that there is no restriction with respect to Union Territories in Clause 4(a) of the Eligibility Criteria. If the submission of Mr. Mookherjee is taken into consideration then there is no difficulty to accept the experience of the petitioners with respect to Puducherry and Daman. The respondents have accepted the experience of the respondent no.5 with respect to the same work executed in Delhi twice i.e. in the Lok Sabha Election, 2024 and Assembly Election, 2025 but have not accepted the experience of the petitioners executed in Puducherry and Daman which are the Union Territories.
- 40.** Mr. Sabyasachi Choudhuri, Learned Senior Advocate representing the respondent no.5 submits that the petitioners have relied upon the experience of 44,790 cameras at Andhra Pradesh during Lok Sabha Election 2024 but the said work was awarded jointly to the respondent no.5 and the petitioners. If it is the specific case of the authorities that explanation of Clause 4(b) is not applicable to Clause 4(a) with respect to Union Territories, the respondents cannot say that the Consortium or Joint Venture is applicable in Clause 4(a).

- 41.** As regard to the Clause 4(b) of the Eligibility Criteria, the petitioners have submitted experience of State of Kerala, Union Territory of Puducherry and Daman. The respondent authorities have not accepted the experience of the petitioners on the ground that as per explanation of Clause 4(b) experience of Union Territory will not be allowed.
- 42.** The respondent no.5 has submitted its experience for the work under Clause 4(b) one from the State of Tamil Nadu and two experience Certificates from Delhi. The respondent authorities have accepted the experience of the respondent no.5 of Delhi though Delhi is the Union Territory. Mr. Mookherjee relied upon Article 239AA of the Constitution of India and submits that the Union Territory of Delhi is different from the other Union Territories and having Assembly and deemed to be the State. Mr. Mookherjee has relied upon the judgment in the case of **Government of NCT of Delhi (supra)** and relied upon the paragraphs 14 to 19 of the said judgment which reads as follows:

“C. Interpretation of Article 239-AA : The 2018 Constitution Bench judgment [State (NCT of Delhi) v. Union of India, (2018) 8 SCC 501]

(a) Delhi : A sui generis model

14. *The 2018 Constitution Bench decision held that NCTD is not similar to other Union Territories. The decision elucidates the manner in which the insertion of Article 239-AA accorded a “sui generis” status to NCTD setting it apart from other Union Territories. The judgment noted that the constitutional entrenchment of a Legislative Assembly, Council of Ministers, and Westminster style Cabinet System of Government brought into existence the attributes of a representative form of Government. As a consequence, the residents of*

Delhi have been, through their elected representatives, afforded a voice in the governance of NCTD, while balancing the national interests of the Union of India.

15. *The majority decision, speaking through Dipak Misra, C.J. held :*

“196. Thus, NDMC [NDMC v. State of Punjab, (1997) 7 SCC 339] makes it clear as crystal that all Union Territories under our constitutional scheme are not on the same pedestal

S. Essence of Article 239-AA of the Constitution

206. It is perceptible that the constitutional amendment conceives of conferring special status on Delhi. This has to be kept in view while interpreting Article 239-AA. ...

207. At the outset, we must declare that the insertion of Articles 239-AA and 239-AB, which specifically pertain to NCT of Delhi, is reflective of the intention of Parliament to accord Delhi a sui generis status from the other Union Territories as well as from the Union Territory of Puducherry to which Article 239-A is singularly applicable as on date. The same has been authoritatively held by the majority judgment in NDMC case to the effect that the NCT of Delhi is a class by itself.

209. The exercise of establishing a democratic and representative form of Government for NCT of Delhi by insertion of Articles 239-AA and 239-AB would turn futile if the Government of Delhi that enjoys the confidence of the people of Delhi is not able to usher in policies and laws over which the Delhi Legislative Assembly has power to legislate for NCT of Delhi.

210. Further, the Statement of Objects and Reasons for the Constitution (Seventy-fourth Amendment) Bill, 1991 which was enacted as the Constitution (Sixty-ninth Amendment) Act, 1991 also lends support to our view as it clearly stipulates that in order to confer a special status upon the National Capital, arrangements should be incorporated in the Constitution itself.”

16. The concurring opinion of Chandrachud, J. emphasised the significance of legislative and constitutional history in interpreting Article 239-AA. In that context, the judgment notes :

“383. Having regard to this history and background, it would be fundamentally inappropriate to assign to NCT a status similar to other Union Territories. Article 239-AA(4) is a special provision which was adopted to establish a special constitutional arrangement for the governance of NCT, albeit within the rubric of Union Territories. In interpreting the provisions of Article 239-AA, this Court cannot adopt a blinkered view, which ignores legislative and constitutional history. While adopting some of the provisions of the Acts of 1963 and 1966, Parliament in its constituent capacity omitted some of the other provisions of the legislative enactments which preceded the Sixty-ninth Amendment.”

17. Having imparted a purposive interpretation to Article 239-AA, the judgment underscores that the governance structure which Parliament adopted for NCTD is unique and different from that of other Union Territories. It was held that the constituent power of Parliament was exercised “to treat the Government of NCT of Delhi as a representative form of Government”.

The judgment of the majority held :

“213. ... Article 239-A gives discretion to Parliament to create by law for the Union Territory of Puducherry a Council of Ministers and/or a body which may either be wholly elected or partly elected and partly nominated

to perform the functions of a legislature for the Union Territory of Puducherry.

214. On the other hand, Article 239-AA clause (2), by using the word “shall”, makes it mandatory for Parliament to create by law a Legislative Assembly for the National Capital Territory of Delhi. Further, sub-clause (a) of clause (2) declares very categorically that the Members of the Legislative Assembly of the National Capital Territory of Delhi shall be chosen by direct election from the territorial constituencies in the National Capital Territory of Delhi. Unlike Article 239-A clause (1) wherein the body created by Parliament by law to perform the functions of a legislature for the Union Territory of Puducherry may either be wholly elected or partly elected and partly nominated, there is no such provision in the context of the Legislative Assembly of NCT of Delhi as per which Members can be nominated to the Legislative Assembly. This was a deliberate design by Parliament.

215. We have highlighted this difference to underscore and emphasise the intention of Parliament, while inserting Article 239-AA in the exercise of its constituent power, to treat the Legislative Assembly of the National Capital Territory of Delhi as a set of elected representatives of the voters of NCT of Delhi and to treat the Government of NCT of Delhi as a representative form of Government.

216. The Legislative Assembly is wholly comprised of elected representatives who are chosen by direct elections and are sent to Delhi's Legislative Assembly by the voters of Delhi. None of the Members of Delhi's Legislative Assembly are nominated. The elected representatives and the Council of Ministers of Delhi, being accountable to the voters of Delhi, must have the appropriate powers so as to perform their functions effectively and efficiently.”

18. *In his concurring opinion, Chandrachud, J. also held that NCTD is “special class among Union Territories”. It was held :*

“384. All Union Territories are grouped together in Part VIII of the Constitution. While bringing them under the rubric of one constitutional pairing, there is an unmistakable distinction created between them by the Constitution. ...

388. Delhi presents a special constitutional status under Article 239-AA. This is fortified when those provisions are read in contrast with Articles 239-A and 240. Article 239-AA does not incorporate the language or scheme of Article 240(1), which enables the President to frame Regulations for peace, progress and good government of the Union Territories referred to in Article 240(1). This proviso to Article 240(1) indicates that once a parliamentary law has been framed, the President shall not frame Regulations for Puducherry. In the case of Delhi, Article 239-AA does not leave the constitution of a legislature or the Council of Ministers to a law to be framed by Parliament in future. Article 239-AA mandates that there shall be a Legislative Assembly for NCT and there shall be a Council of Ministers, with the function of tendering aid and advice to the Lieutenant Governor. That “there shall be” formulation is indicative of a constitutional mandate. Bringing into being a Legislative Assembly and a Council of Ministers for NCT was not relegated by Parliament (in its constituent power) to its legislative wisdom at a future date upon the enactment of enabling legislation. Clause 7(a) of Article 239-AA enables Parliament by law to make provisions to give effect to or to supplement the provisions contained in that Article. Parliament's power is to enforce, implement and fortify Article 239-AA and its defining norms.

389. The above analysis would indicate that while Part VIII brings together a common grouping of all Union Territories, the

Constitution evidently did not intend to use the same brush to paint the details of their position, the institutions of governance (legislative or executive), the nature of democratic participation or the extent of accountability of those entrusted with governance to their elected representatives.”

19. Thus, it is evident from the 2018 Constitution Bench judgment [State (NCT of Delhi) v. Union of India, (2018) 8 SCC 501] that the constitutional status of NCTD is not similar to other Union Territories, which are covered under Part VIII of the Constitution.”

43. Article 239AA of the Constitution of India reads as follows:

“239AA. Special provisions with respect to Delhi.—(1) As from the date of commencement of the Constitution (Sixty-ninth Amendment) Act, 1991, the Union territory of Delhi shall be called the National Capital Territory of Delhi (hereafter in this Part referred to as the National Capital Territory) and the administrator thereof appointed under article 239 shall be designated as the Lieutenant Governor.

(2)(a) There shall be a Legislative Assembly for the National Capital Territory and the seats in such Assembly shall be filled by members chosen by direct election from territorial constituencies in the National Capital Territory.

(b) The total number of seats in the Legislative Assembly, the number of seats reserved for Scheduled Castes, the division of the National Capital Territory into territorial constituencies (including the basis for such division) and all other matters relating to the functioning of the Legislative Assembly shall be regulated by law made by Parliament.

(c) The provisions of articles 324 to 327 and 329 shall apply in relation to the National Capital Territory, the Legislative Assembly of the National Capital Territory and the members thereof as they apply, in relation to a State, the Legislative

Assembly of a State and the members thereof respectively; and any reference in articles 326 and 329 to “appropriate Legislature” shall be deemed to be a reference to Parliament.

(3)(a) *Subject to the provisions of this Constitution, the Legislative Assembly shall have power to make laws for the whole or any part of the National Capital Territory with respect to any of the matters enumerated in the State List or in the Concurrent List in so far as any such matter is applicable to Union territories except matters with respect to Entries 1, 2 and 18 of the State List and Entries 64, 65 and 66 of that List in so far as they relate to the said Entries 1, 2 and 18.*

(b) *Nothing in sub-clause (a) shall derogate from the powers of Parliament under this Constitution to make laws with respect to any matter for a Union territory or any part thereof.*

(c) *If any provision of a law made by the Legislative Assembly with respect to any matter is repugnant to any provision of a law made by Parliament with respect to that matter, whether passed before or after the law made by the Legislative Assembly, or of an earlier law, other than a law made by the Legislative Assembly, then, in either case, the law made by Parliament, or, as the case may be, such earlier law, shall prevail and the law made by the Legislative Assembly shall, to the extent of the repugnancy, be void:*

Provided that if any such law made by the Legislative Assembly has been reserved for the consideration of the President and has received his assent, such law shall prevail in the National Capital Territory:

Provided further that nothing in this sub-clause shall prevent Parliament from enacting at any time any law with respect to the same matter including a law adding to, amending, varying or repealing the law so made by the Legislative Assembly.

(4) *There shall be a Council of Ministers consisting of not more than ten percent. of the total*

number of members in the Legislative Assembly, with the Chief Minister at the head to aid and advise the Lieutenant Governor in the exercise of his functions in relation to matters with respect to which the Legislative Assembly has power to make laws, except in so far as he is, by or under any law, required to act in his discretion:

Provided that in the case of difference of opinion between the Lieutenant Governor and his Ministers on any matter, the Lieutenant Governor shall refer it to the President for decision and act according to the decision given thereon by the President and pending such decision it shall be competent for the Lieutenant Governor in any case where the matter, in his opinion, is so urgent that it is necessary for him to take immediate action, to take such action or to give such direction in the matter as he deems necessary.

(5) *The Chief Minister shall be appointed by the President and other Ministers shall be appointed by the President on the advice of the Chief Minister and the Ministers shall hold office during the pleasure of the President.*

(6) *The Council of Ministers shall be collectively responsible to the Legislative Assembly.*

[[7] (a)] *Parliament may, by law, make provisions for giving effect to, or supplementing the provisions contained in the foregoing clauses and for all matters incidental or consequential thereto.*

[(b)] *Any such law as is referred to in sub-clause (a) shall not be deemed to be an amendment of this Constitution for the purposes of article 368 notwithstanding that it contains any provision which amends or has the effect of amending, this Constitution.]*

(8) *The provisions of article 239B shall, so far as may be, apply in relation to the National Capital Territory, the Lieutenant Governor and the Legislative Assembly, as they apply in relation to the Union territory of [Puducherry], the administrator and its Legislature, respectively; and any reference in that article to “clause (1) of article*

239A” shall be deemed to be a reference to this article or article 239AB, as the case may be.”

44. Article -1 of the Constitution of India deals with the Name and Territory of the Union, which reads as follows:

“1. Name and territory of the Union.—(1)
India, that is Bharat, shall be a Union of States.

[(2) The States and the territories thereof shall be as specified in the First Schedule.]

(3) The territory of India shall comprise—

(a) the territories of the States;

[(b) the Union territories specified in the First Schedule; and]

(c) such other territories as may be acquired.”

45. The Union territories specified in the First Schedule Part-II which reads as follows:

| Name | Territories |
|---|--|
| II. THE UNION TERRITORIES | |
| Name | Extent |
| 1. <i>Delhi</i> | <i>The territory which immediately before the commencement of this Constitution was comprised in the Chief Commissioner’s Province of Delhi.</i> |
| <i>[* * * * *]</i> <i>[* * * * *]</i> | |
| 2. <i>The Andaman and Nicobar Islands</i> | <i>The territory which immediately before the commencement of this Constitution was comprised in the Chief Commissioner’s Province of the Andaman and Nicobar Islands.</i> |
| 3. <i>[Lakshadweep]</i> | <i>The territory specified in section 6 of the States Reorganisation Act, 1956.</i> |

| | |
|--|--|
| [4. Dadra and Nagar Haveli and Daman and Diu] | The territory which immediately before the eleventh day of August, 1961 was comprised in Free Dadra and Nagar Haveli and the territories specified in section 4 of the Goa, Daman and Diu Reorganisation Act, 1987.] |
| 5. [* * * *] | |
| [6. [Puducherry] | The territories which immediately before the sixteenth day of August, 1962, were comprised in the French Establishments in India known as Pondicherry, Karikal, Mahe and Yanam.] |
| [7. Chandigarh [* * * * *] [* * * * *] | The territories specified in section 4 of the Punjab Reorganisation Act, 1966 |
| [8. Jammu and Kashmir | The territories specified in section 4 of the Jammu and Kashmir Reorganization Act, 2019. |
| [9. Ladakh | The territories specified in section 3 of the Jammu and Kashmir Reorganisation Act, 2019.] |

46. In the case of **Government of NCT of Delhi (supra)**, the Hon'ble Supreme Court held that:

“40. Soon thereafter, in 1962, Article 239-A was inserted in the Constitution by the Constitution (Fourteenth Amendment) Act, 1962. This envisaged the creation of local legislatures or a Council of Ministers or both for certain Union Territories. Thus, a significant change was introduced in the governance structure for the Union Territories. Article 239-A created a separate category of the Union Territories since all Union Territories were no longer envisaged to be administered only by the President. The introduction of Article 239-A was followed by the Government of Union Territories

Act, 1963. Currently, the Union Territory of Puducherry is administered in terms of the governance structure envisaged by this enactment.

41. By the Constitution (Sixty-ninth Amendment) Act, 1991 (“the 1991 Constitution Amendment”), Article 239-AA was inserted in the Constitution. It introduced a unique structure of governance for NCTD vis-à-vis the Union Territories. The Statement of Objects and Reasons provides as follows:

“1. ... After such detailed inquiry and examination, it recommended that Delhi should continue to be a Union Territory and provided with a Legislative Assembly and a Council of Ministers responsible to such Assembly with appropriate powers to deal with matters of concern to the common man. The Committee also recommended that with a view to ensure stability and permanence, the arrangements should be incorporated in the Constitution to give the National Capital a special status among the Union Territories.”

44. The concurring opinion of Chandrachud, J. in the 2018 Constitution Bench judgment expressly discussed this aspect and held that no single homogeneous class of the Union Territories exists. Instead, the Union Territories fall in various categories :

“453. The judgment of the majority [NDMC v. State of Punjab] also holds that all Union Territories are not situated alike. The first category consists of Union Territories which have no legislature at all. The second category has legislatures created by a law enacted by Parliament under the Government of Union Territories Act, 1963. The third category is Delhi which has “special features” under Article 239-AA. Though the Union Territory of Delhi “is in a class by itself”, it ‘is certainly not a State within the meaning of Article 246 or Part VI of the Constitution’. Various Union Territories — the Court observed — are in different stages of evolution. ...

475.1. The introduction of Article 239-AA into the Constitution was the result of the exercise of the constituent power. The Sixty-ninth Amendment to the Constitution has important consequences for the special status of Delhi as the National Capital Territory, albeit under the rubric of a Union Territory governed by Part VIII of the Constitution.”

48. *Therefore, we are unable to agree with the argument of the Solicitor General that the legislative power of NCTD does not extend to those subjects which are not available to the Union Territories as a class because Article 239-AA employs the term “any such matter is applicable to Union Territories”. The analysis in this section clarifies that there is no homogeneous class of the Union Territories with similar governance structures.”*

47. Through the Constitution (Sixty Ninth Amendment) Act, 1991 Parliament inserted Articles 239AA and 239AB. Article 239AA of the Constitution created special provisions for Delhi. First it provided that the ‘Union Territory of Delhi’ would henceforth be known as the ‘National Capital Territory of Delhi’ (NCT). The Administration of NCT would be the ‘Lieutenant Governor’. Article 239AA set up a Legislative Assembly which would have the power to make laws for the NCT with respect to the matters in the State List of the Constitution. Article 239AA did not deprive Parliament from making laws with respect to Union Territory of Delhi. The provision set up a Council of Ministers, and a Chief Minister of Delhi, who would aid and advise the Lieutenant Governor on those matters that the Legislative Assembly was empowered to make laws. In case of a disagreement between the

Lieutenant Governor and the Legislative Assembly, the President shall decide the dispute.

- 48.** Delhi is a Union Territory officially designated as the National Capital Territory of Delhi. While it functions as a hybrid, possessing an elected Legislative Assembly and Chief Minister. It is not full-fledged State and remains under the administrative control of the Union Government. Considering the above, the argument made by the Learned Advocate for the respondent authorities that the Delhi is not Union Territory is not sustainable.
- 49.** The respondent no. 6 has submitted its experience in connection to Clause 4(b) of the eligibility criteria of four States i.e. Assam, Himachal Pradesh, Mizoram and Andhra Pradesh. As regard to the work completion certificate of Mizoram, the respondent no.5 has installed 765 numbers of IP Based Web Cameras in polling station which is 60% of the total polling stations. It is the contention of the respondent nos. 1 to 3 and 6 that as per the instruction of the Election Commission of India, web casting is to be done in all critical polling stations and all polling stations in vulnerable areas at least 50% of the total polling station including auxiliary polling stations. Thus the respondent authorities have taken into consideration as 100%.

Similarly with regard to the work completed certificate of State of Andhra Pradesh, the respondent no.6 has commissioned IP based video surveillance system including live streaming recording at the Andhra

Pradesh Legislative Council and not for any Assembly Election or Lok Sabha Election.

The petitioners have provided work experience certificate of Puducherry and Daman but the respondents have not considered the same as Union Territory whereas the fact remains that the respondents have accepted the work experience of Delhi with respect to the respondent no.5.

50. In the case of ***Banshidhar Construction Private Limited Vs. Bharat Coking Coal Limited and Others*** reported in **(2024) 10 SCC 273**, the Hon'ble Supreme Court held that :

“36. It was sought to be submitted by the learned counsel for the respondents relying upon the observations made in Central Coalfields Ltd. v. SLL-SML (JVC), that whether a term of NIT is essential or not is a decision taken by the employer which should be respected. However, in the said judgment also it is observed that if the employer has exercised the inherent authority to deviate from the essential term, such deviation has to be made applicable to all the bidders and potential bidders. It was observed in paras 47 and 48 as under :

“47. The result of this discussion is that the issue of the acceptance or rejection of a bid or a bidder should be looked at not only from the point of view of the unsuccessful party but also from the point of view of the employer. As held in Ramana Dayaram Shetty the terms of NIT cannot be ignored as being redundant or superfluous. They must be given a meaning and the necessary significance. As pointed out in Tata Cellular there must be judicial restraint in interfering with administrative action. Ordinarily, the soundness of the decision taken by the employer ought not to be questioned but the decision-making process

can certainly be subject to judicial review. The soundness of the decision may be questioned if it is irrational or mala fide or intended to favour someone or a decision 'that no responsible authority acting reasonably and in accordance with relevant law could have reached' as held in Jagdish Mandal followed in Michigan Rubbe.

48. Therefore, whether a term of NIT is essential or not is a decision taken by the employer which should be respected. Even if the term is essential, the employer has the inherent authority to deviate from it provided the deviation is made applicable to all bidders and potential bidders as held in Ramana Dayaram Shetty. However, if the term is held by the employer to be ancillary or subsidiary, even that decision should be respected. The lawfulness of that decision can be questioned on very limited grounds, as mentioned in the various decisions discussed above, but the soundness of the decision cannot be questioned, otherwise this Court would be taking over the function of the tender issuing authority, which it cannot."

37. *The submissions made by the learned counsel for the respondents that the project in question being infrastructure project and also one of the mega projects, this Court may not interfere more particularly in view of the fact that agreement has already been entered into between the respondent BCCL and the Special Purpose Vehicle of Respondent 8, cannot be accepted, when we have found that the impugned decision of the respondent BCCL was grossly arbitrary, illegal, discriminatory and violative of Article 14 of the Constitution of India. As held earlier, the Government bodies/instrumentalities are expected to act in absolutely fair, reasonable and transparent manner, particularly in the award of contracts for mega projects. Any element of arbitrariness or discrimination may lead to hampering of the entire project which would not be in the public interest.*

51. In the case of **N.G. Projects Limited Vs. Vinod Kumar Jain and Others** reported in **(2022) 6 SCC 127** wherein the Hon'ble Supreme Court held that:

“10. We find that the interference in contract awarded to the appellant is wholly unwarranted and has caused loss to public interest. Construction of roads is an essential part of development of infrastructure in any State. The learned Single Bench and the Division Bench of the High Court were exercising power of judicial review to find out whether the decision of the State was manifestly arbitrary or unjust as laid down by this Court in Tata Cellular v. Union of India and to act as appellate authority over the decision of the State. This Court in Tata Cellular held as under :

“70. It cannot be denied that the principles of judicial review would apply to the exercise of contractual powers by government bodies in order to prevent arbitrariness or favouritism. However, it must be clearly stated that there are inherent limitations in exercise of that power of judicial review. Government is the guardian of the finances of the State. It is expected to protect the financial interest of the State. The right to refuse the lowest or any other tender is always available to the Government. But, the principles laid down in Article 14 of the Constitution have to be kept in view while accepting or refusing a tender. There can be no question of infringement of Article 14 if the Government tries to get the best person or the best quotation. The right to choose cannot be considered to be an arbitrary power. Of course, if the said power is exercised for any collateral purpose the exercise of that power will be struck down.

77. The duty of the court is to confine itself to the question of legality. Its concern should be:

1. *Whether a decision-making authority exceeded its powers?*

2. committed an error of law,
3. committed a breach of the rules of natural justice,
4. reached a decision which no reasonable tribunal would have reached or,
5. abused its powers.

Therefore, it is not for the court to determine whether a particular policy or particular decision taken in the fulfilment of that policy is fair. It is only concerned with the manner in which those decisions have been taken. The extent of the duty to act fairly will vary from case to case. Shortly put, the grounds upon which an administrative action is subject to control by judicial review can be classified as under:

- (i) *Illegality* : This means the decision-maker must understand correctly the law that regulates his decision-making power and must give effect to it.
- (ii) *Irrationality*, namely, *Wednesbury unreasonableness*.
- (iii) *Procedural impropriety*.

The above are only the broad grounds but it does not rule out addition of further grounds in course of time. As a matter of fact, in *R. v. Secy. of State for the Home Dept., ex p Brind*, Lord Diplock refers specifically to one development, namely, the possible recognition of the principle of proportionality. In all these cases the test to be adopted is that the court should, 'consider whether something has gone wrong of a nature and degree which requires its intervention'.

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.*

Based on these principles we will examine the facts of this case since they commend to us as the correct principles.”

13. *This Court sounded a word of caution in another judgment reported as *Silppi Constructions Contractors v. Union of India*, wherein it was held that the courts must realise their limitations and the havoc which needless interference in*

commercial matters could 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. The courts must also not interfere where such interference would cause unnecessary loss to the public exchequer.

22. *The satisfaction whether a bidder satisfies the tender condition is primarily upon the authority inviting the bids. Such authority is aware of expectations from the tenderers while evaluating the consequences of non-performance. In the tender in question, there were 15 bidders. Bids of 13 tenderers were found to be unresponsive i.e. not satisfying the tender conditions. The writ petitioner was one of them. It is not the case of the writ petitioner that action of the Technical Evaluation Committee was actuated by extraneous considerations or was mala fide. Therefore, on the same set of facts, different conclusions can be arrived at in a bona fide manner by the Technical Evaluation Committee. Since the view of the Technical Evaluation Committee was not to the liking of the writ petitioner, such decision does not warrant for interference in a grant of contract to a successful bidder.*

23. *In view of the above judgments of this Court, the writ court should refrain itself from imposing its decision over the decision of the employer as to whether or not to accept the bid of a tenderer. The Court does not have the expertise to examine the terms and conditions of the present day economic activities of the State and this limitation should be kept in view. Courts should be even more reluctant in interfering with contracts involving technical issues as there is a requirement of the necessary expertise to adjudicate upon such issues. The approach of the Court should be not to find fault with magnifying glass in its hands,*

rather the Court should examine as to whether the decision-making process is after complying with the procedure contemplated by the tender conditions. If the Court finds that there is total arbitrariness or that the tender has been granted in a mala fide manner, still the Court should refrain from interfering in the grant of tender but instead relegate the parties to seek damages for the wrongful exclusion rather than to injunct the execution of the contract. The injunction or interference in the tender leads to additional costs on the State and is also against public interest. Therefore, the State and its citizens suffer twice, firstly by paying escalation costs and secondly, by being deprived of the infrastructure for which the present day Governments are expected to work.”

52. In the case of **Surguja Bricks Industries Company Vs. State of Chhattisgarh and Others** reported in **2025 SCC OnLine SC 2916**

wherein the Hon’ble Supreme Court held that:

“24. We are of the unhesitant view that an eligibility criteria should be clear and unambiguous. Otherwise, it may lead to arbitrary exercise of power by the State disqualifying a tenderer who would otherwise meet the eligibility criteria. In West Bengal State Electricity Board v. Patel Engineering, this Court declared that to hold that a State or its agencies can reject a tender for breach of a term or condition in the tender document which is not explicit in the tender documents is to give room to the State or its agencies to arbitrarily reject tenders even when clear terms or conditions of tender documents are complied with. Therefore, it is the responsibility of the tendering authority to issue clear and unambiguous instructions in a NIT. As pointed out by this Court in Patel Engineering (supra), when there is vagueness or subjectivity in the norms, it may result in an unequal and discriminatory treatment and provide room for manipulation to suit the whims of the State agencies in picking and choosing a bidder for awarding contracts.

26.1. *This Court also referred to its earlier decision in the case of Dutta Associates (P) Ltd. v. Indo Merchantiles (P) Ltd.⁹, where this Court found that the offer of the lowest tenderer for wholesale supply of rectified spirit (Grade 1) to the Excise Department, Government of Assam, was not accepted on the ground that the price offered did not come within the ‘viability range’ and this Court held that the tender process was vitiated for the reason that the tender notice did not specify the ‘viability range’ nor did it say that only the tenders coming within the ‘viability range’ will be considered. In Dutta Associates (P) Ltd., this Court observed that whatever procedure the Government proposes to follow in accepting the tender must be clearly stated in the tender notice; the consideration of tenders received and the procedure to be followed in the matter of acceptance of a tender should be transparent, fair and open.*

27. *There is no dispute to the proposition that the tender inviting authority is the best judge to understand and appreciate its requirements and interpret its documents. In Afcons Infrastructure Ltd. and in Bharat Coking Coal Ltd. as well as in subsequent decisions, this Court has upheld this principle observing that ordinarily constitutional courts should defer to the understanding of the tender inviting authority of the tender documents. However, this principle has its own limitations. If the interpretation of the tender inviting authority or its understanding of the tender conditions is vitiated by mala fides or perversity, there is no question of a constitutional court showing deference to such understanding. Likewise, if the interpretation of the tender inviting authority of a particular condition of tender, such as, an eligibility criteria as in the present case is irrational or absurd leading to arbitrary consequences, it would be the duty of a constitutional court to interdict such a decision making process. To hold otherwise would render the very object of judicial review otiose.”*

53. In the present case before participation in the tender process, a pre-bid meeting was held. The petitioners have submitted its proposal for

amendment in the Eligibility Criteria 4(a) and 4(b) but the respondent authorities have not considered the proposal of the petitioners. Even after refusal of the proposal of the petitioners, the petitioners have participated in the tender process. The last date of submission of tender process was 21st February, 2026 but on 20th February, 2026, the respondents have issued corrigendum wherein the respondents have modified Clause 4(b) of the Eligibility Criteria by deleting the word “*different*” and included numerical “3”. The respondent no. 5 got the benefit as the respondent no.5 has the experience of “*Delhi*” in Lok Sabha Election in the year 2024 and Assembly Election in the year 2025. In the pre-bid meeting, it was the specific request of the petitioners’ that deletion of UT and the same was not considered but the respondent authorities have considered the experience of the respondent no.5 executed the work in Delhi Election though the Delhi is the Union Territory. On the other hand, the respondent authorities have not considered the experience of the petitioners of Puducherry and Daman on the ground of Union Territory.

- 54.** Similarly, the respondent authorities have considered the experience of the respondent no.6 of Mizoram and Andhra Pradesh though the respondent has the experience in Mizoram only 60% and experience in Andhra Pradesh is only with respect to Assembly Council Election and not either Lok Sabha Election or Assembly Election of the State.
- 55.** It is settled law that while invoking power of judicial review in matters as to the tenders or award of contracts, certain special features should

be borne in mind that evaluations of tenders and awarding of contracts are essentially commercial functions and principles of equity and natural justice stay at a distance in such matters. If the decision relating to award of contract is bona fide and is in public interest, Courts will not interfere by exercising powers of judicial review even if a procedural aberration or error in assessment or prejudice to a tenderer is made out. Power of judicial review will not be invoked to protect private interest at the cost of public interest, or to decide contractual dispute.

56. The respondents have also challenged the maintainability of the writ petition on the ground that the petitioners have suppressed the fact that the petitioners have participated in the pre-bid meeting and the proposal of the petitioners was refused by deleting the UT in the explanation clause but even the petitioners has participated and shown experience in the Union Territory and now prayed for setting aside the Request for Proposal. In the mid of hearing, the petitioners submitted that the petitioners is not pressing prayer (b) of the writ petition and he prayed for order on the basis of equity. The petitioners have also filed a supplementary affidavit prayed for relaxation by allowing the petitioners to participate in the RFP dated 9th February, 2026.

57. Technical bid of the petitioners, was rejected on 28th February, 2026. The petitioners have affirmed the affidavit of the writ petition on 11th March, 2026 and filed on 12th March, 2026 and moved before this Court on 16th March, 2026. Mr. Mitra during argument has handed

over two documents i.e. e-Procurement System of Government of West Bengal dated 17th March, 2026 and 18th March, 2026 wherein it reveals that till 18th March, 2026, Financial Evaluation and Acceptance of contract was not completed. On the other hand, the respondents have placed work orders dated 11th March, 2026 and submit that the respondents have already started the work. The Request For Proposal is for providing a Surveillance System for Live Web Streaming (Audio, Video, Record, Viewing, CCTV and Other Services) for the General Election of West Bengal Legislative Assembly, 2026. The Request For Proposal is issued in public interest. The Election Commission of India has already declared Election in the State of West Bengal on 23rd April, 2026 and 29th April, 2026.

- 58.** This Court finds that in the writ petition, the petitioners have disclosed all the documents on the basis of which the petitioners as well as the added respondents have participated in the tender process. After filing of the case, the petitioners have changed its mind and not pressed the prayer (b) for setting aside of Request For Proposal and prayed for allowing the petitioners to participate in the tender process by relaxation of some conditions. The respondents have produced their respective work orders issued on 11th March, 2026 and it is the specific submissions that the respondents have started their work in terms of their work orders. The work orders relied by the petitioners are also suspicious whether it was actually issued on 11th March, 2026 or to make the writ petition infructuous. From record, it revealed that work

orders were not uploaded till 18th March, 2026 on the website. The Tender process was conducted through online process. All correspondences have also made through online but have not uploaded the Financial Evaluation and Acceptance of Contract in the e-Procurement of System till 18th March, 2026, thus the case made out by the respondents that work orders have been issued on 11th March, 2026 is not acceptable.

- 59.** The petitioners have not pressed the challenge of RFP and only challenged the conduct of the respondents on the ground of equality, thus writ petition is maintainable. This Court finds that the act of the respondent authorities by awarding tender to the respondent nos. 5 and 6 by rejecting the technical bid of the petitioners is arbitrary and mala fide as in one hand, the respondents have taken into consideration of the experience of the private respondents of Delhi, and on the other hand, the experience of the petitioners in Puducherry and Daman is not considered. The respondent authorities have not treated the petitioners equal to the private respondent with regard to the experience relied by the petitioners. This Court refrain from interfering the work orders issued in favour of the respondent nos. 5 and 6 only on the ground that the Request For Proposal is for the public interest i.e. for the General Election to the West Bengal Legislative Assembly, 2026 and the election is to be conducted on 23rd April, 2026 and 29th April, 2026. It is settled law that public interest prevail over private interest. If the petitioners are so advised, the petitioner is at liberty to take

appropriate steps for damages before the appropriate Court in accordance with law.

60. WPA No. 6237 of 2026 is thus **disposed of**.

Parties shall be entitled to act on the basis of a server copy of the Judgment placed on the official website of the Court.

Urgent Xerox certified photocopies of this judgment, if applied for, be given to the parties upon compliance of the requisite formalities.

(Krishna Rao, J.)