

(2011) 02 JH CK 0014

Jharkhand High Court

Case No: L.P.A. No. 33 of 2011

Vijeta Projects and
Infrastructures Ltd.

APPELLANT

Vs

The State of Jharkhand and
Others

RESPONDENT

Date of Decision: Feb. 15, 2011

Citation: (2011) 1 JLR 528 : (2011) 2 JCR 326

Hon'ble Judges: Bhagwati Prasad, C.J; D.N. Patel, J

Bench: Division Bench

Final Decision: Dismissed

Judgement

1. Heard learned Counsel for the parties.

2. The tender which was issued in the year 2008 has not been finalized even today. In the meantime, the State Government has decided not to pursue the matter any further in relation to tender, issued earlier and has sought to re-advertise the tender.

3. The Appellant is aggrieved of this. The Appellant's argument is that the recommendation which was placed before the Adviser to the Governor was not to the effect that there should be re-tender and in that view of the matter, this order of the Adviser to the Governor cannot be considered to be a reasoned order and it is, thus, an arbitrary order and such arbitrary orders are not in accordance with law as has been laid down by the Supreme Court in the case of [Union of India and Others Vs. Dinesh Engineering Corporation and Another etc.,](#) .

4. We have looked into the note which precedes the final order of the Adviser to the Governor and in that note, we find that before tender was issued, there was no technical sanction available for the proposed work and as such the opinion expressed in the note is in conformity with the earlier Vigilance Commissioner's report dated 6.4.2010 produced herewith at page-122. When we find that the tender

process was initiated without there being a valid technical sanction, it cannot be said that a tender therefore could be preceded with, when initially there was no technical sanction and proper evaluation. The notice preceding the order of the Adviser to the Governor notices many drawbacks and inconformities in the process of issuing tender. In view of the aforesaid, when a tender which was issued in the year 2008 has not become final till date, the reasonableness requires that such tender should not be allowed to remain in existence because the period of 2008 to 2011 has seen too much fluctuations in financial sector and in that view of the matter, it would not be appropriate for this Court to enter into the question because there are reasons available on record for re-tendering and reasonableness also requires that after such a long time when a tender is not finalized, the same should be re-advertised.

5. In that view of the matter, we find no illegality in the order of the learned single Judge. There being no force, this appeal is accordingly dismissed.