

HIGH COURT OF SIKKIM

Record of proceedings

W.P. (C) No.42/2018

AJAY PAL MANGAL & CO.

.... PETITIONER

Versus

DIRECTOR GENERAL, BORDER ROADS ORGANISATION
& ANR.

.... RESPONDENTS

Date:30.11.2018

CORAM

HON'BLE MR. JUSTICE BHASKAR RAJ PRADHAN, J.

For Petitioner : Mr. Tashi Rapten Barfungpa and Mr. Hissey Gyaltsen,
Advocates.

For Respondents : Mr. Karma Thinlay, Central Government Counsel with
Ms. Pollin Rai, Assistant Government Advocate.

.....

The sole ground on which the present writ petition attacks the tender floated by the Respondents in the year 2018 after cancelling the previous tender floated in the year 2017 is the alleged arbitrary inclusion of a new tender condition desiring experience of having successfully completed similar works at altitude 1000 m and above, if work is required to be executed at altitude 2100 m and above. Mr. Karma Thinlay Namgyal, learned Central Government Counsel fairly submits that although it has been mentioned in the counter-affidavit filed by the Respondents that the new condition was based on the communication dated 05.07.2018 issued by the Respondent no.1 to all Chief Engineers of various projects enclosing therein the model tender form the counter-affidavit does not specify the reasons for such inclusion. This is the only aspect, which is required to be examined by the Court. In view of the same, the Respondents is

HIGH COURT OF SIKKIM
Record of proceedings

directed to place relevant documents showing the decision making process for cancellation of the previous tender as well as the need for inclusion of the new tender condition. It shall be filed along with an affidavit of a competent officer for the Respondent no.1 within a period of one month as prayed for. In the meanwhile, the Respondents is permitted to proceed with the tender process however, no final decision shall be taken.

List on 18.03.2019.

Judge
30.11.2018

to/ **Index: yes/No**
Internet: yes/No