GAHC030005092026

THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/98/2026

Gallant Sports and Infra Private Ltd.
Having its office at Unit 424, 4th Floor
Eros City Square, Rosewood City
Sector 49, Gurgaon, Haryana
R/b its Authorized representative
Sh. Steven Lalhriatpuia
S/o Lalrosanga
R/o Kulikawn, Aizawl, Mizoram

VERSUS

The Secretary Mizoram Sports and Youth Services Department and Anr.
Plot No. A-42
New Capital Complex Rd. Road, Khatla
Aizawl Mizoram

Advocate for the Petitioner : Mr. Lalfakawma

Advocate for the Respondent : Addl. AG/GA, Mizoram for R.1

BEFORE

HON'BLE MR. JUSTICE SANJEEV KUMAR SHARMA

Date on which judgment is reserved : **07.10.2026**.

Date of pronouncement of judgment : **15.10.2026.**

Whether the pronouncement is of the operative part of the judgment ? : No.

Whether the full judgment has been pronounced? : Yes

JUDGMENT & ORDER (CAV)

Heard Mr. Lalfakawma, the learned counsel for the petitioner. Also heard Mrs. Vanneihsiami, the learned Government Advocate for the respondent No.1 and Mr. B. Lalramenga, the learned Standing Counsel for the respondent No. 2.

2. This is an application filed under Article 226 of the Constitution of India praying for a writ of Certiorari for setting aside or modification of the Clause 4.4, Sl. No. 4 under the head 1. Format of Check List as well as Clause 3.3 (h) and Clause 4.19 in the Request for Proposal dated 29th June 2026 (RFP No. PR-431/MSSC/2026), floated for construction of Artificial Football Turf at East Lungdar, Serchhip District, Mizoram.

3. The learned counsel for the petitioner submits that he is aggrieved by the condition prescribed in the said Request for Proposal (in short 'RFP') embodied at Clause 4.4, Sl. No. 4 of the same. He submits that under the said condition, it is provided that the bidder must have successfully executed at least six (6) FIFA-Standard Artificial Turf Football Grounds in Mizoram.

4. The learned counsel submits that the petitioner has successfully executed FIFA-Standard Artificial Turf Football Grounds in various parts of the country and one in Mizoram. However, he submits that the said condition that six (6) numbers of works should have been executed by the bidder in Mizoram is unreasonable and the same restricted the participation of the companies related to such work.

5. He submits that the petitioner, as such is aggrieved by the said conditions. To substantiate his argument, he has placed reliance on a judgment of the Hon'ble Supreme Court passed in the case of *Vinishma Technologies Pvt. Ltd. Vs. State of*

Chattishgarh and Another, reported in *(2025) SCC Online SC 2119*, by which the Apex Court had observed that the basic feature of a tender being to get the best possible products or work and at the best price, the notices inviting tender should encourage wider participation of the bidders.

6. In the instant case, the learned counsel for the petitioner submits that by prescribing the aforesaid conditions, the participation is restricted. He further submits that the quality prescribed for laying down the artificial turf in the football fields in the bid document is fulfilled by the petitioner concerned but only because of the condition that he should have executed at least six (6) numbers of works in Mizoram restricted his participation in the said bid process.

7. Subsequently, by filing an additional affidavit, the petitioner has sought to bring on record two other RFPs issued for a similar project as the present one i.e. Construction of Artificial Turf (Football) at New Champhai, Champhai District, Mizoram and Construction of Artificial Turf (Football) at Thenzawl, Serchhip, Mizoram. In both the RFPs, the last date for submission was fixed as 15.01.2026, wherein at Clause 4.4 (4) the Criteria for qualified bidder was fixed as a firm who has successfully completed four (4) Nos of the FIFA standard Artificial Turf Football in Mizoram.

However, in the present case at Clause 4.4 (4) the Criteria for a qualified bidder has been fixed as a bidding firm having successfully executed at least six (6) FIFA's standard Artificial Turf Football in Mizoram.

8. The respondent No. 2, i.e., the Mizoram State Sports Council, which has floated the aforesaid tender, has filed an affidavit-in-opposition contending therein that the condition requiring the bidding firm to have successfully executed at least six (6) FIFA-standard artificial turf football grounds in Mizoram was incorporated in the RFP,

having regard to the specialized and technical nature of the work. The condition was prescribed with the bona fide objective of ensuring that the selected contractor possesses adequate experience, technical capability and expertise in executing artificial turf football grounds, particularly under the climatic, topographical and soil conditions prevailing in Mizoram.

9. It is further submitted that the proposed work involves much more than merely supplying and laying artificial turf. It includes specialized civil works such as site preparation, designed RCC structure works, earthwork, sub-grade and sub-base preparation, under drainage and related works, which require proper design and execution in view of the challenging conditions prevailing at many sites in Mizoram. The Petitioner's assertion that it is a supplier of FIFA-preferred artificial turf does not, by itself, establish adequate experience in executing the complete specialized works contemplated under the RFP. As per the records available with the Respondents, the Petitioner has executed only one artificial turf football ground in Mizoram. Such limited experience does not demonstrate sufficient exposure to the varied site and seasonal conditions prevailing in the State, particularly the heavy monsoon conditions and associated drainage and soil-related challenges. The prescribed experience criterion was therefore necessary to ensure that the selected bidder possesses adequate and proven experience for successful execution of the project in Mizoram.

10. It is further submitted that the condition was not intended to exclude or favour any particular bidder and was uniformly applicable to all prospective bidders. Moreover, the RFP itself provided flexibility by permitting, in exceptional cases, firms having four (4) completed and two (2) ongoing similar projects to be considered. Considering the specialized nature of the work, the project could have been invited through a restricted tender in accordance with the provisions of the CPWD Manual and GFR. However, in the interest of fairness, transparency and wider competition,

the Respondents chose to invite the tender through an open competitive bidding process. The allegation that the condition is arbitrary or has no connection with the objective of ensuring quality and durability is therefore misconceived and denied. The condition was framed on the basis of past experience and genuine technical requirements, with the sole objective of ensuring proper execution, quality, durability and protection of public funds.

11. Further, in response to the additional affidavit filed by the petitioner, the respondent No. 2 has also filed a reply stating therein, inter alia, that:

(i) That the Mizoram State Sports Council (i.e., the Respondent No.2) is the competent Procuring/Tendering Authority, empowered as per the applicable delegation of powers and procurement rules, to prepare, approve and issue the RFP for the subject works. The RFP for laying of artificial football turfs at Thenzawl and Champhai, published on 17.12.2025, required the bidder to have successfully completed at least four (4) similar projects. Then, after a period of approximately six months, the RFPs for other projects at East Lungdar and Vaivakawn were published on 29.06.2026, wherein the eligibility requirement was revised/upgraded to require four (4) successfully completed similar projects along with two (2) ongoing similar projects, aggregating to a total of six (6) similar projects. The said revision of the eligibility criteria was made by the competent Tendering Authority with a view to ensuring that the successful bidder possessed adequate and relevant experience, as well as demonstrated execution capacity, commensurate with the nature and requirements of the works, thereby facilitating more effective and better quality execution.

(ii) That the revised requirement constitutes a project-specific qualification criterion prescribed for a subsequent and dependent tender and does not

constitute any modification of the terms or conditions of an existing contract. The revision was accordingly made in the public interest and in accordance with the applicable procurement framework, with the objective of securing proper and better effective execution of the works.

12. Learned counsel representing respondent No. 2, in support of his contentions, has relied upon the decision of the Hon'ble Apex Court in *Silppi Constructions Contractors Vs. Union of India,* reported in *(2020) 16 SCC 489,* wherein it has been held as follows:

> "*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. With this approach in mind we shall deal with the present case."

13. Reliance is also placed by learned counsel for the respondent No. 2 on the decision of the Hon'ble Apex Court in *Afcons Infrastructure Ltd. Vs. Nagpur Metro Rail Corpn. Ltd. & Anr.,* reported in *(2016) 16 SCC 818*. In the aforesaid decision, the Hon'ble Apex Court has scrutinized the decisions rendered in a number of authorities and observed as follows:

"11. Recently, in Central Coalfields Ltd. v. SLL-SML (Joint Venture Consortium) [2] it was held by this Court, relying on a host of decisions that the decision making process of the employer or owner of the project in accepting or rejecting the bid of a tenderer should not be interfered with. Interference is permissible only if the decision making process is mala fide or is intended to favour someone. Similarly, the decision should not be interfered with unless the decision is so arbitrary or irrational that the Court could say that the decision is

one which no responsible authority acting reasonably and in accordance with law could have reached. In other words, the decision making process or the decision should be perverse and not merely faulty or incorrect or erroneous. No such extreme case was made out by GYT-TPL JV in the High Court or before us.

12. In Dwarkadas Marfatia and Sons v. Board of Trustees of the Port of Bombay[3] it was held that the constitutional Courts are concerned with the decision making process. Tata Cellular v. Union of India[4] went a step further and held that a decision if challenged (the decision having been arrived at through a valid process), the constitutional Courts can interfere if the decision is perverse. However, the constitutional Courts are expected to exercise restraint in interfering with the administrative decision and ought not to substitute its view for that of the administrative authority. This was confirmed in Jagdish Mandal v. State of Orissa[5] as mentioned in Central Coalfields.

13. In other words, a mere disagreement with the decision making process or the decision of the administrative authority is no reason for a constitutional Court to interfere. The threshold of mala fides, intention to favour someone or arbitrariness, irrationality or perversity must be met before the constitutional Court interferes with the decision making process or the decision.

15. We may add that the owner or the employer of a project, having authored the tender documents, is the best person to understand and appreciate its requirements and interpret its documents. The constitutional Courts must defer to this understanding and appreciation of the tender documents, unless there is mala fide or perversity in the understanding or appreciation or in the application of the terms of the tender conditions. It is possible that the owner or employer of a project may give an interpretation to the tender documents that is not acceptable to the constitutional Courts but that by itself is not a reason for interfering with the interpretation given."

14. With a view to ascertain as to whether the stand taken by the respondent No. 2 in its two affidavits are supported by any material on record relating to the decision-making process which led to the formulation of the aforesaid eligibility criteria under challenge, this Court had requested learned counsel for respondent No. 2 to place the records of the case, which the learned counsel had complied with on the day of hearing itself.

15. A perusal of the aforesaid records, including the office notes contained therein, do not demonstrate any conscious decision on the part of the authorities concerned to change the earlier criteria of 4 (four) numbers of completed works to 6 (six), or in exceptional cases, 4 (four) numbers of completed works and 2 (two) numbers of ongoing works. It appears that no meeting of the decision-makers took place, as no such Minutes of any meeting in which the aforesaid decision to change the criteria was taken is available on record. Neither do the office notes indicate any such deliberation. It only appears that a draft of the RFP was prepared by a concerned official, which was thereafter approved by the President of the Council (respondent No. 2).

16. At this stage, the eligibility condition in the Request for Proposal that is under challenge may be reproduced:

> "***The Bidder shall be qualified only if he/she fulfils the following technical bid criteria***
>
> *The bidding firm must have successfully executed at least six (6) FIFA-standard artificial turf football grounds in Mizoram. In exceptional cases, firms with a minimum of four (4) completed projects and two (2) ongoing projects may be considered. This criterion has been stipulated to ensure that the firm possesses adequate experience in laying artificial turf suitable to the climatic and soil*

conditions of the State, as it has been observed that some previous works were not executed satisfactorily by firms/contractors lacking the requisite experience and expertise. This condition is therefore incorporated in public interest to ensure quality and durability of the works.

Copies of similar works executed in Mizoram State along with work order and performance certificate issued by the previous clients showing the nature of work and their value. Completion/performance Certificate is required to be enclosed. (WORK DONE CERTIFICATE to be enclosed)"

17. Insistence of adequate experience in the relevant field is a standard and accepted feature of bid conditions. Prior experience of the tender authority in similar works may also be a relevant consideration while formulating the bid conditions. The necessity of ensuring the quality and durability of the works cannot also be disputed as an important consideration while formulating the tender conditions. All these are general propositions. However, the formulation of the precise conditions require application of mind to the relevant facts and circumstances.

18. At the request of the Court, learned counsel for the respondent No. 2 had submitted a list showing the list of FIFA standard artificial turfs football grounds in Mizoram along with the names of the contractors, their location, and their status, that is, completed or under construction. From a perusal of the aforesaid list, it appears that there is only one firm that satisfies the aforesaid eligibility criteria challenged in the present writ petition. However, as already adverted to hereinbefore, there is no indication as to whether this fact has been taken into consideration while formulating the aforesaid tender condition. This, in the view of the Court, is a very relevant consideration because if the work is restricted to only one eligible bidder, the element of competition, which is the essence of a tender process, would be entirely eliminated. By limiting the experience within the geographical boundaries of the State of Mizoram and thereby excluding similar experience in similar climatic, soil, and topographical conditions, the authority has also unduly restricted the scope of participation in the tender process, resulting in a highly restrictive practice which cannot be in the public interest. When it

is known beforehand that there is only one eligible bidder, the financial competitiveness of the bid is also compromised.

19. In the present factual matrix, if the same conditions are repeated in subsequent proposals, it would result in creation of a perpetual monopoly in favour of one single firm in the State of Mizoram, which also cannot be in the public interest. This is not to say that in no circumstance can the work be restricted to a single bidder, for example, in case of highly specialized works where very few players operate, but that is not the case here. It is for these reasons that such restrictive conditions cannot be incorporated arbitrarily, but must be the result of due application of mind after proper deliberation, which must find reflection in the official records. Absent that, the authority cannot make out a case by formulating reasons and justifications in their affidavits filed before the Court.

20. In the aforesaid view of the matter, I am of the considered opinion that the decision-making process suffers from the vice of arbitrariness resulting from non-application of mind to the relevant facts and circumstances, and therefore, the impugned tender condition cannot be sustained.

21. Accordingly, the aforesaid tender condition i.e. Clause 4.4 (Sl. No.4) under the Head 1. Format of Check List in the Request for Proposal (RFP No. PR-432/MSSC/2026 dated 29.06.2026) is set aside, and the respondent No. 2 authority is directed to take a fresh decision after due deliberation, taking into account all the relevant facts and circumstances, including the ones as indicated above, and arrive at a fresh decision, whereafter the authority may issue a corrigendum incorporating the eligibility condition based on the fresh decision, replacing the earlier eligibility condition. After formulation of the new eligibility condition, the same be published, giving sufficient time to the willing and eligible bidders to participate in the tender process.

22. Learned counsel for the petitioner does not press the challenge to Clause 3.3(h) and

Clause 4.19 of the Request for Proposal (RFP No. PR-431/MSSC/2026 dated 29.06.2026) and hence, the said issue is not required to be determined herein.

23. With the aforesaid directions, the writ petition stands disposed of.

JUDGE

Comparing Assistant