IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S). OF 2026
(Arising out of SLP (Civil) No (s). 10745 of 2026)

SANJAY KUMAR SAMANTARAY **....APPELLANT(S)**

VERSUS

SHANTILATA KHUNTIA AND OTHERS **....RESPONDENT(S)**

O R D E R

1. Heard.

2. Leave granted.

3. The instant appeal with special leave is preferred against the judgment and order dated 18th February, 2026 passed by the Division Bench of the

Signature Not Verified
Digitally signed by SACHIN
Date: 2026.04.11.07 12:14:43 IST
Reason:

High Court of Orissa at Cuttack[1] in W.P. (C) No. 29658 of 2025.

4. The matter pertains to a tender floated by the Chief Engineer & Basin Manager, Mahanadi Kathajodi System, Bhubaneswar for e-procurement *vide* notice dated 5th May, 2025 for the work titled as *"Protection to scoured bank of Devi right embankment near village Erancha from RD 5.200km to RD 7.500 km (Construction of 8nos of Spurs)"* valued at Rs.26,37,28,875.00/- (Rupees Twenty-Six Crores Thirty-Seven Lakhs Twenty-Eight Thousand Eight Hundred and Seventy-Five only). The tender notice envisaged a two-stage process comprising technical evaluation (Cover-I) and the opening of final bids (Cover-II) of technically qualified bidders, with a stipulation under Clause 35 of the Detailed Tender Call Notice[2] that in the event of multiple bidders quoting an identical rate, the successful bidder was to be selected through a transparent automated lottery.

5. On 13th August, 2025, the Project Level Technical Committee evaluated 16 technical bids,

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1 Hereinafter, referred to as "High Court".

2 For short, "DTCN".

and found 13 bidders, including the appellant, Sanjay Kumar Samantaray, technically qualified, whereas, respondent No.1, Shantilata Khuntia (writ petitioner before the High Court)[3], and two other bidders were disqualified for non-compliance with the technical eligibility criteria. To be specific, respondent No.1-writ petitioner failed to furnish mandatory "work-in-hand" details under Clause 4(E) of Section 2 of the DTCN required to determine her bid capacity.

6. On 18th September, 2025, the Procurement Committee at the Engineer-in-Chief level scrutinized and approved the recommendations of the Project Level Technical Committee. Subsequently, on 24th September, 2025, the Tender Committee-cum-Empowered Committee, headed by the Development Commissioner-cum-Additional Chief Secretary, Department of Water Resources, Government of Odisha confirmed the recommendations and upheld the disqualification of respondent No.1-writ petitioner.

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3 Hereinafter, referred to as "respondent No.1-writ petitioner".

7. On 10th October, 2025, the decision of the Tender Committee-cum-Empowered Committee was formally communicated *vide* Letter No.28470, permitting the authorities to proceed with opening of the financial bids. However, it is averred that owing to a technical glitch on 13th October, 2025 at 3:30 PM, an incorrect version of the evaluation document was inadvertently uploaded on the e-procurement portal, describing the reason for respondent No.1-writ petitioner's disqualification as non-execution of *"moorum/sand filling work"*.

8. To rectify this inadvertent error, the tendering authorities exercised the portal's technical revoke option at 6:45 PM on the same day, to undo the incorrect document uploaded and reverted the tender status to the "Technical Bid Opening" stage. Although, respondent No.1-writ petitioner received automated system emails at 7:04 PM (intimating tender revocation) and at 7:27 PM (stating her technical bid was opened/admitted), the approved and corrected Evaluation Document was duly uploaded on the portal at 7:34 PM on the same evening, completely rectifying the error and re-

affirming rejection of respondent No.1-writ petitioner's bid, under Clause 4(E) of Section 2 of the DTCN, simultaneously declaring 13 bidders technically responsive.

9. Thus, although there were certain inadvertent glitches in the communication of these decisions, the final bids of all 13 technically qualified bidders, including the appellant, were eventually opened on 14th October, 2025. All 13 bidders were found to have quoted an identical rate of 14.99% below the estimated cost, thereby jointly occupying the L-1 position. Consequently, an automatic lottery was conducted in accordance with the tender conditions. The appellant has set up a specific case that he emerged successful in the lottery and was declared as a successful L-1 bidder. The case so set up by the appellant remains uncontroverted.

10. Parallelly, respondent No.1 instituted W.P.(C) No. 29658 of 2025 before the High Court on 15th October, 2025 challenging the opening of the final bids contending that once the tender had been revoked on 13th October, the authorities could not have proceeded further with the process. The High

Court stayed the tender process by order dated 24th October, 2025.

11. The appellant has set up a specific case that in spite of being declared a successful bidder pursuant to the lottery, he was not impleaded as a party to the writ petition. This fact is fortified by copy of the writ petition annexed with the appeal as Annexure P-14 wherein, in the array of parties, only the official State authorities had been impleaded as respondents.

12. Upon learning of the said proceedings in the High Court, the appellant filed I.A. No. 3047 of 2026 seeking intervention in the writ petition on the ground that he possessed a direct, substantial and legally protectable interest in the subject matter, having emerged as the successful L-1 bidder in the evaluation process followed by the lottery.

13. However, without effectively adjudicating or considering the appellant's intervention application, the High Court proceeded to allow the writ petition *vide* judgment and order dated 18th February, 2026, which is subject matter of challenge in this appeal

preferred by the appellant being the successful L-1 bidder.

14. By the impugned order, the High Court quashed the tender process from the stage of financial bid opening and directed the State authorities to undertake a fresh technical evaluation of all bids, including the bid of respondent No.1-writ petitioner.

15. We have heard and considered the submissions advanced by learned counsel appearing on behalf of the parties and have gone through the material placed on record.

16. A very relevant fact which needs to be mentioned is that respondent Nos. 2-4, being the State of Odisha and its authorities, filed a counter affidavit dated 22nd September, 2026, and have categorically stated that in compliance of the order dated 18th February, 2026, passed by the High Court, administrative steps were taken and a fresh technical evaluation of bids was conducted. Upon such fresh scrutiny, respondent No.1-writ petitioner has once again failed to satisfy the technical criteria, as duly recorded in official Letter No. 5798/WE

dated 21st February, 2026 (Annexure R-2), which explicitly records that *"the original technical bid evaluation shall remain unchanged even after re-evaluation"*. The fact regarding the appellant having succeeded in the automated lottery process as L-1 bidder is also not in dispute.

17. In this background, we are fully satisfied that the interference made by the High Court in the tender process, which was initiated for a very crucial work for protecting the embankment of *Devi* River, was not justified. The fact remains that technical bid of respondent No.1-writ petitioner had been rejected upon evaluation, which status remains unaltered even after re-evaluation, as is stated in the letter dated 21st February, 2026 *(supra)*.

18. Notably, respondent No.1-writ petitioner has not countered the said assertion made in the said letter. We may note that despite due service of notice, respondent No.1 has chosen not to appear before this Court to contest the proceedings.

19. It is true that initially certain inadvertent typographical errors occurred in recording the

reasons for disqualification of respondent No.1-writ petitioner but those inadvertent errors have been duly rectified and explained by the respondents in their pleadings before the High Court and so also before this Court. The respondent No.1, being the writ petitioner before the High Court, also failed to implead the appellant (successful bidder) as a party respondent before the High Court and hence, evidently, the impugned order suffers from the *vice*, having been passed behind the back of the successful bidder i.e., the appellant herein and cannot be sustained. It is noteworthy that there was no allegation of *mala fide* in the bid evaluation process undertaken by the respondent authorities.

20. While we would have ordinarily considered remanding the matter to the High Court for fresh adjudication but keeping in view the fact that the tender was issued for a very crucial work, i.e., *"Protection to scoured bank of Devi right embankment near village Erancha from RD 5.200km to RD 7.500 km (Construction of 8nos of Spurs)"* and as respondent No.1-writ petitioner has remained unresponsive on the technical aspect even after re-

evaluation, no useful purpose would be served by remanding the matter to the High Court for fresh consideration. Accordingly, the impugned order is set aside.

21. The appellant, who had succeeded in the tender process and had been picked out as the successful L-1 bidder through the automated lottery process, shall be issued the work order at the earliest and not later than four weeks from the date of submission of a certified copy of this order before the competent authority.

22. The appeal is allowed in these terms. No order as to costs.

23. Pending application(s), if any, shall stand disposed of.

.....J.
(SANDEEP MEHTA)

.....J.
(PRASANNA B. VARALE)

NEW DELHI;
NOVEMBER 05, 2026.

ITEM NO.31 COURT NO.4 SECTION XI-A

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS
Petition for Special Leave to Appeal (C) No.10745/2026

[Arising out of impugned final judgment and order dated 18-02-2026 in WPC No. 29658/2025 passed by the High Court of Orissa at Cuttack]

SANJAY KUMAR SAMANTARAY Petitioner(s)

VERSUS

SHANTILATA KHUNTIA & ORS. Respondent(s)

Date : 05-11-2026 This matter was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE SANDEEP MEHTA
HON'BLE MR. JUSTICE PRASANNA B. VARALE

For Petitioner(s) : Mr. K Parameshwar, Sr. Adv.
Mr. Yash S. Vijay- 3775, AOR
Mr. Shikhar Aggarwal, Adv.
Mr. Joshua Tom Thomas, Adv.
Mr. Prasad Hegde, Adv.
Mr. Soumya Ranjan Mohanty, Adv.
Mr. Ritesh Patnaik, Adv.
Mr. Pradyuman Singh, Adv.

For Respondent(s) : Mr. Srisatya Mohanty- 3136, AOR
Mr. Jyotiraditya Roychowdhury,Adv.

UPON hearing the counsel the Court made the following

O R D E R

1. Leave granted.

2. The appeal is allowed in terms of the signed order placed on the file.

3. Pending application(s), if any, shall stand disposed of.

(SACHIN)
COURT MASTER (SH)

(AKSHAY KUMAR BHORIA)
COURT MASTER (NSH)