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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% Judgment Reserved on: *05.08.2026*

Judgment delivered on: *14.08.2026*

Judgment uploaded on: *14.08.2026*

\# **CNR No. DLHC010334682026**

\+ **W.P.(C) 10386/2026 & CM APPL. 48047/2026**

M/S VARDHMAN PROBUILD PRIVATE LIMITED ..... Petitioner

versus

IRCON INTERNATIONAL LIMITED (IRCON) & ORS. .....Respondents

<u>Advocates who appeared in this case</u>

For the Petitioner	:	Mr. Kiritiman Singh, Sr. Advocate with Mr. Sidhartha Barua, Mr. Kumar Amav Singh Deo, Mr. Taha Yasin, Mr. Naman, Mr. Rishav and Mr. Yasharth Shukla, Advocates
For the Respondents	:	Ms. Hiral Gupta and Mr. Kaushik Moitra, Advocates for R-1. Ms. Amrita Prakash CGSC, Mr. Siddharth Srivastava, Advocate and Mr. Gaurav Khosla, GP for R-2 & 3.

CORAM:
HON'BLE MR. JUSTICE V. KAMESWAR RAO
HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

<u>JUDGMENT</u>

MANMEET PRITAM SINGH ARORA, J.

1. The present writ petition has been filed under Article 226 of the Constitution of India challenging the Summary for Technical Evaluation Report dated 24.07.2026 ['impugned report'] issued by Respondent No.1/IRCON International Limited, whereby the Petitioner has been declared technically disqualified on the ground that the 'Essential Qualification Criteria requirement of similar work is not fulfilled'.

FACTUAL MATRIX

2. Respondent No.1 has issued a Notice inviting Tender bearing No. IRCON/B1100009/MSME/e-Tender/EPC/TC Bilaspur/ET50 ['Tender'] dated 23.01.2026 inviting bids on an Engineering, Procurement and Construction ['EPC'] basis for the construction of an MSME[1] Technology Centre at Bilaspur, Chhattisgarh, including maintenance during the Defect Liability Period.

3. The estimated cost of the project is Rs. 84 crores inclusive of GST at 18%. The scope of the tender includes construction of RCC framed institutional buildings, electrical works, HVAC[2], plumbing, firefighting, water supply, sewerage, external development, horticulture and allied infrastructure works on EPC basis.

4. Under Clause 1 of the Essential Qualification Criteria ['EQC'], the bidder is required to demonstrate completion or substantial completion of 'Similar Works' during the preceding seven (7) years satisfying any one of the following three alternatives:

[1] Micro, Small and Medium Enterprises
[2] Heating, Ventilation and Air Conditioning

- three similar completed works each costing not less than Rs. 25.20 crore;
- two similar completed works each costing not less than Rs. 33.60 crore each, or
- one similar completed work costing not less than Rs. 50.40 crore.

The bidder is required to submit documentary evidence in the form of the completion certificate clearly mentioning execution of the components set out in the definition of the 'Similar Works'.

For proving eligibility through execution of a 'substantially completed work', the Tender recognised two [2] independent methods by which a bidder could satisfy the eligibility under the EQC. While Explanation (i) to the EQC defined a 'substantially completed work' as an ongoing work in which at least 90% of the contract value had been paid and no termination proceedings had been initiated, the bidder was required to submit a Credential Certificate in this regard issued not before 60 days of the date of invitation of the present Tender, to prove the execution of the components mentioned in the definition of 'Similar Works'. Explanation (iii) to the EQC separately provided an option to the bidder to the effect that if a Provisional Completion Certificate has been issued by the concerned organization for the 'substantially completed work', the said Certificate would be considered for evaluating fulfilment of the credentials required as per the definition of 'Similar Works', subject to the value of work actually paid for by the client. Thus, Explanation (i) and (iii) enabled the bidder to produce either a Credential Certificate or a Provisional Completion Certificate for a 'substantially completed similar work', however, either Certificate must clearly record execution of the components set out in the definition of

'Similar Works'.

5. The Respondent No. 1 has declared the Petitioner's bid as technically disqualified, holding 'EQC requirement of similar work was not fulfilled' *vide* impugned report dated 24.07.2026. Aggrieved therefrom, Petitioner has filed the present petition seeking quashing of the said impugned report.

SUBMISSIONS ON BEHALF OF THE PARTIES

6. Mr. Kirtiman, learned senior counsel for the Petitioner stated that the Petitioner relied upon the execution of the EPC project awarded by the Uttar Pradesh Public Works Department for construction of Non-Residential buildings of the Police Training School at Meerut ['Meerut Project'] to qualify the criteria of substantially completed 'Similar Works' as stipulated under EQC at Annexure V. He stated that the said project comprised RCC framed institutional buildings, HVAC, electrical works, plumbing, firefighting, sewerage, roads, landscaping, horticulture and other allied infrastructure under a single composite EPC contract.

6.1. He stated that the Petitioner submitted its Technical Bid on 27.03.2026 along with all the primary records relating to the Meerut Project, including (i) Letter of Acceptance dated 17.03.2023, (ii) Provisional Completion Certificate dated 30.07.2025, which recorded 91.02% physical completion, corresponding to work worth approximately Rs. 77.51 crore, (iii) Recommendation letter dated 29.12.2025 issued by the Project Management Consultant certifying cumulative running account bill (53rd RA Bill) worth Rs. 79.88 crore, being approximately 93.8% of the contract value, (iv) Sanctioned approval dated 20.11.2025; and (v) Project Status

Report dated 05.03.2026 for the Meerut Project generated through Government/Public Works Department ['PWD'] portal, also showing 96.48% physical progress.

6.2. He stated that the sanctioned approval dated 20.11.2025 for extra items shows that air-conditioning works was within the scope of the Meerut Project and that the Special Conditions of the Contract expressly record horticulture, landscaping and HVAC system as forming part of the scope of work. He stated that all these documents cumulatively established Petitioner's compliance with the definition of 'Similar Works' in EQC under Annexure V of the Tender.

6.3. He stated that before finalization of the technical evaluation by the Respondent No.1, through representations dated 20.07.2026 the Petitioner also submitted a subsequent Provisional Completion Certificate dated 11.06.2026, issued by the Executive Engineer, PWD Meerut, in relation to the Meerut Project, which recorded that the project had achieved 97.51% physical completion and 95.10% financial completion, with executed work valued at approximately Rs. 80.72 crore. He stated that, further, before opening of the financial bids through a representation dated 24.07.2026, additional documents were enclosed specifically evidencing execution of HVAC Works and Horticulture works in the Meerut Project.

6.4. He stated that despite the above material placed on record, the Petitioner was wrongly declared 'Not Qualified' *vide* impugned report dated 24.07.2026 by merely stating that the 'EQC requirement of similar work was not fulfilled.' He stated that the impugned report did not identify the eligibility threshold which was allegedly not met, the reason for disregarding the Provisional Completion Certificate, or the basis on which the Meerut Project was treated as dissimilar. He stated that the impugned report has failed to deal with the documents furnished by the Petitioner through representations dated 20.07.2026 and 24.07.2026.

6.5. He stated that the same cryptic reason 'EQC requirement of similar work not fulfilled' was cited to disqualify twelve [12] out of twenty-seven [27] bidders without assigning any bidder-specific reason, which demonstrates a mechanical exercise and a complete lack of application of mind by the Tender Evaluation Committee ['TEC'].

6.6. He stated that the declared L-1 bidder, namely M/s Shubh Engineers, quoted a rate of 27.11% below the estimated cost, amounting to Rs. 61,22,76,000/-, whereas the Petitioner had quoted 28.80% below the estimated cost, amounting to Rs. 59,80,80,000/-. It is stated that had the Petitioner been declared technically qualified, it would have emerged as the lowest bidder. It is stated that the Petitioner's disqualification has resulted in an avoidable loss of Rs. 1,41,96,000/- to the public exchequer.

6.7. He stated that the EQC and documentary standards were not uniformly applied to all bidders and points to alleged deficiencies in the bid of M/s Shubh Engineers, the L-1 bidder and M/s Shyam Infra Nirman Private Limited, the L-9 bidder.

With respect to L-1 bidder, he referred to the documents including an experience certificate issued on the same date as the stated completion date, i.e., 31.03.2024, absence of the name and designation of the certifying signatory, submission of the experience certificate on plain paper, incomplete manpower-deployment particulars, and the ESIC certificate dated 25.11.2024 submitted which bear the date much after the date of completion of Bhiwani Tender awarded to L1 herein, i.e., 31.03.2024.

6.8. He stated that the impugned report dated 24.07.2026 is therefore arbitrary, non-speaking and contrary to the Tender conditions as the relevant documents were ignored, no clarification was sought despite an enabling provision.

7. In reply, Ms Hiral Gupta, learned counsel for the Respondent No.1, stated that TEC has assessed all bids strictly in accordance with the objective and mandatory EQC prescribed in Annexure V of the Tender Document. She stated that the Petitioner was technically disqualified because:

I. As per Explanation (i) to the EQC, the bidders were required to submit the Credential Certificate which has been issued not earlier than 60 days before the date of Invitation of Tender; however, the Provisional Completion Certificate dated 30.07.2025, submitted by the Petitioner, was issued more than 60 days before the tender invitation dated 23.01.2026 and was, therefore, invalid under the EQC;

II. The updated Provisional Completion Certificate dated 11.06.2026 was submitted on 20.07.2026, after the bid-submission deadline, and could not cure the deficiency in the original bid submitted;

III. The documents submitted by the Petitioner did not establish actual execution of all components required under the definition of 'Similar Works,' particularly HVAC and Horticulture Works.

7.1. She stated that the Respondent No.1 on 24.02.2026[3] issued Corrigendum No. 03, permitting bidders to submit combined credentials demonstrating execution of each of the six [6] minor activities, namely, HVAC, firefighting, plumbing, electrical works, external development and Horticulture Works.

7.2. She stated that the Petitioner therefore had the option to submit separate supporting credentials evidencing its experience in the components, which are not established by the Meerut Project's Provisional Completion Certificate; however, it did not submit any such combined credentials and relied only upon documents relating to the Meerut Project, which did not establish execution of HVAC and Horticulture works.

7.3. She stated that accordingly, the TEC, after evaluating the bid documents submitted by the Petitioner on 27.03.2026, concluded that the Petitioner had not fulfilled the EQC relating to having experience of successfully completing 'Similar Works'. She stated that more specifically, the documents submitted by the Petitioner with its bid failed to show due execution of Horticultural works and HVAC in the Meerut Project.

7.4. She relied upon the contents of the short affidavit and a short Note handed over during arguments.

8. In response, Mr. Kirtiman, learned senior counsel appearing on behalf of the Petitioner stated that the issue date not prior to 60-days condition applied only to the Credentials Certificate submitted as per Explanation (i) to the EQC and not to the Provisional Completion Certificate, which were

[3] Annexed as Annexure R/1

separately dealt with under Explanation (iii) to the EQC. He stated therefore the TEC cannot reject the Project Completion Certificate dated 30.07.2025 submitted by the Petitioner with the bid documents on 27.03.2026.

He stated that the subsequent Provisional Completion Certificate dated 11.06.2026, submitted with representation dated 20.07.2026 was merely an updated corroborative document and not an attempt to cure any deficiency in the original bid submitted by the Petitioner.

8.1. With respect to the 'Similar Works', he stated that both components, i.e., HVAC and Horticulture work, formed part of the scope of the Meerut Project and that the relevant contractual and supporting documents evidencing this were already on record.

8.2. Insofar as HVAC works are concerned, he relied upon the sanctioned approval dated 20.11.2025 relating to extra items, which specifically included air-conditioning works. He stated that the approval was issued after verification of the work actually carried out at the site. He further relied upon the recommendation letter dated 29.12.2025, which certified a paid amount of approximately Rs. 2,12,91,417/- against extra item works and recommended the corresponding running account bill for payment. He contended that the recommendation letter dated 29.12.2025 corresponds to the sanctioned approval dated 20.11.2025 and shows that the air-conditioning work was actually undertaken.

8.3. In relation to horticulture works, he relied upon the contractual scope of the Meerut Project, the Provisional Completion Certificate dated 11.06.2026 recording 97.51% physical and 95.10% financial completion, and the project Status Report dated 05.03.2026, generated through

Government/PWD portal, recording 96.48% physical progress of the Meerut Project. He states that the principal buildings under the project had already been handed over and made operational. He states that, in these circumstances, the Respondent No.1 could not have concluded that Horticulture Works had not been undertaken, without verifying the documents or conducting a site visit, as contemplated in Notes to Clause 1 of EQC for verification of the work undertaking.

8.4. He stated that the expression 'typically consisting of' in the definition of 'Similar Works' did not require separate documentary proof of each ancillary component. He stated that the Corrigendum No. 03, merely provided an additional route for bidders whose principal credential did not cover all minor components and the same did not apply to the Meerut Project, as it was a composite EPC project, which covered all the components enlisted in 'Similar Works'.

ANALYSIS AND FINDINGS

9. This Court has heard the learned counsel for the parties and perused the record.

10. The short issue that arises for consideration is whether the decision of the TEC of Respondent No. 1, holding that the Petitioner's experience of Meerut Project fails to satisfy the requirement of bidder experience for 'substantially completed similar work' under the EQC, is fair, reasonable and free from arbitrariness.

11. The relevant Clauses of the EQC set out in Annexure V of the Tender to be considered for determining the present controversy are as under:

"**Essential Qualifying Criteria**

1. The bidder should possess the experience of having successfully completed or substantially completed similar works during the last 7-years (ending last day of the month previous to the one in which tenders are invited) which should be anyone of the following:-

   i) Three similar completed works each costing not less than the amount equal to 30% of the estimated cost.

   ii) Two similar completed works each costing not less than the amount equal to 40% of the estimated cost.

   iii) One similar completed work costing not less than the amount equal to 60% of the estimated cost.

Notes:

"Similar works" shall mean "Project comprising Construction of RCC framed structure Building (Ground Floor + 2 Story or more) typically consisting of HVAC System, Fire Fighting Services, Plumbing Services, Electrical Works, external development and horticulture works."

The contractor shall **submit** documentary evidence in form of **completion certificate clearly** mentioned **scope of work** mentioned as above duly signed by an officer not below the rank of Executive Engineer or General Manager in case of private work.

In case of private work, the agency shall submit TDS certificates for the payment received for the work from employer. The department reserves the right to verify the documents submitted and shall conduct a visit to see the work for which the completion certificate is produced.

For similar work experience, bidder shall use Up-dation factor to update the price of eligible projects as given below:

Year	Year-1	Year-2	Year-3	Year-4	Year-5	Year-6	Year-7
Up-dation Factor	1.00	1.07	1.14	1.21	1.28	1.35	1.42

…
…

5. The **bidder should submit <u>completion certificates</u> in reference to S.No.1** (minimum 3 nos., 2 nos. or 1 no. as the case may be) above issued by **Government Organizations**/Semi Government Organizations/ Public Sector Undertakings/Autonomous bodies/Municipal bodies/ Public Limited Company/Concessionaire Company/ Private Company/JV Company for having successfully completed similar works in the last 7 years. Certificates issued by such Public Limited Company/Concessionaire Company /Private Company/JV Company must be supported by Tax Deducted at Source (TDS) Certificates (Form 16A/ 26AS) in evidence of the value of work executed. In case of supply contracts, Copies of GSTR-1/GSTR 3B to be submitted by the bidder as a proof of payment received for supply. Before implementation of GST where no TDS is deducted, relevant copies of purchase order and invoices along with bill wise details of payment received duly certified by Chartered Accountant should be submitted by the bidder in support of value of work executed.
…
…
…
[Explanation for above Essential Qualifying Criteria No. 1 to 8:

i. <u>Substantially Completed Work</u> means an ongoing work in which payment equal to or more than 90% of the present contract value (excluding the payment made for adjustment of Price variation (PVC), if any) has been made to the contractor in that ongoing contract and no proceedings of termination of contract on Contractor's default has been initiated. <u>The **credential certificate** in this regard should have been issued not prior to 60 days of date of invitation of present tender.</u>

ii. In case of <u>substantially completed work</u>, the total gross amount already paid including the PVC amount (if paid), as mentioned in the certificate, shall be considered as the cost of substantially completed work.

iii. <u>If a **provisional completion certificate** is issued by the concerned organization, such work shall be considered for fulfillment of credentials</u>. However, the value of work done shall be considered to the extent of actual amount paid by the client.

iv. In case a work is considered similar in nature for fulfilment of technical credentials, the overall cost of that work including Price Variation amount, if any, shall be considered and no separate evaluation for each component of that work shall be made to decide eligibility."

[Emphasis supplied]

12. The Petitioner has contended that it is eligible to participate in the Tender process and has relied upon its experience of having substantially completed the Meerut Project for purpose of EQC. The Petitioner contends that its Meerut Project is a 'substantially completed work' as contemplated in Clause 1 of the EQC and this project consists of all the components enlisted in the definition of 'Similar Works' as set out in the Notes to Clause 1 of the EQC. The Petitioner relies upon the documents pertaining to the Meerut Project submitted with the Technical Bid on 27.03.2026 to prove that the said project satisfies the conditions of the EQC. The details of the documents, submitted with the bid, are set out at paragraph 7 (i)(e)(iii) at page 28 and 7 (i)(e)(v) at page 31-32 of the writ petition.

13. The Petitioner contends that the Meerut Project answers component for component, every element of the Tender's definition of 'Similar Works' and the same has been set out in detail at paragraph 7 (i)(e)(iv) at page 29 to 31 of the writ petition.

14. The Petitioner has contended that prior to the finalization of the Technical Evaluation Report by the TEC as well as before opening of the financial bids, the Petitioner addressed e-mails dated 20.07.2026 and 24.07.2026 submitting to the Respondent No.1 updated Meerut Project documents for consideration while evaluating its Technical Eligibility.

15. The Respondent No.1 has, by way of an affidavit[4] to this writ petition and a short Note[5], responded to the averments in the writ petition and the rejoinder affidavit filed by the Petitioner. The Respondent No.1 maintains that the Petitioner's bid has been disqualified due to the determination by the TEC that 'EQC requirement of similar work not fulfilled'. The Respondent No.1 has outlined the details of disqualification at paragraph 4 of the affidavit, which reads as under:

> "4. The grounds for disqualification that cumulatively led to a determination that "*EQC requirement of similar work not fulfilled'* are outlined here, with additional details provided in Paragraph 6 onwards:
>
> a. The Provisional Completion Certificate dated 30 July 2025, submitted with the Petitioner's bid, had been issued more than 60 days prior to the date of invitation of the Tender, i.e. 23 January 2026, and therefore did not satisfy the prescribed validity requirement;
>
> b. The updated Provisional Completion Certificate dated 11 June 2026 was submitted only on 20 July 2026, well after the bid-submission deadline of 27 March 2026, and could not cure the deficiency in the bid as originally submitted;
>
> c. The completion certificates did not record execution or completion of HVAC and horticulture works, although these components formed part of the "similar works" criterion. The documents relied upon by the Petitioner showed, at the highest, that such works formed part of the contractual scope, which did not establish actual experience in their execution."

The aforesaid grounds have been explained in the subsequent paragraphs of the affidavit, which reads as under: -

> "**B. Failure to establish execution of "Similar Works"**
>
> 9. As per EQC (***page 97/Annexure P-2 o/the Writ***), *"Similar works" shall mean "Project comprising Construction of RCC framed structure Building (Ground Floor + 2 Story or more) typically consisting of HVAC*

[4] Dated 30.07.2026
[5] Dated 05.08.2026

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System, Fire Fighting Services, Plumbing Services, Electrical Works, external development and horticulture works."

10. I state that the Provisional Completion Certificate dated 30 July 2025 (***@pages 283-285/ Annexure P-7 o/the Writ***) does not certify completion of the entire scope of work comprised under the subject project. In particular, the Provisional Completion Certificate does not record or certify completion of certain material components, including Heating, Ventilation and Air Conditioning (HVAC) works and Horticulture works as required under the definition of "Similar Works" ***(@page 97 / Annexure P-5 of the Writ***).

11. I state that, to assist bidders and remove any ambiguity regarding the "Similar Works" criterion, Respondent No.1 issued Corrigendum No. 03 dated 24 February 2026. Point 7 clarified that, even where all six minor components were not executed under the principal credential, a bidder could establish eligibility by submitting combined credentials demonstrating execution of each of the six minor activities, namely HVAC, firefighting, plumbing, electrical works, external development and horticulture works. The Petitioner therefore had the option to submit separate supporting credentials evidencing its experience in the components not established by the Meerut Project completion certificate. However, it did not submit any such combined credentials and relied only upon documents relating to the Meerut Project, which did not establish execution of HVAC works. Accordingly, the Petitioner failed to avail the express opportunity provided under the Corrigendum to demonstrate compliance with the "Similar Works" criterion.
The Corrigendum No. 03 dated 24 February 2026 issued by Respondent No.1 is annexed herewith as **Annexure R-l.**

12. I state that the Technical Evaluation Committee evaluated the Petitioner's technical bid strictly based on the documents submitted within the prescribed bid submission period and m accordance with the EQC contained in the Tender Document. The deficiencies identified hereinabove formed the basis of the Committee's conclusion that the Petitioner had failed to establish compliance with the prescribed EQC.

13. I state that the decision of the Technical Evaluation Committee was taken strictly in accordance with the terms and conditions of the Tender Document and without any arbitrariness or discrimination. The Petitioner was evaluated on the same parameters and standards as were applied to all other participants."

['Emphasis supplied']

16. During oral arguments, the submissions of the parties narrowed down to Petitioner's proof of experience (or lack thereof) *qua* two components,

i.e., Horticulture Works and HVAC system enlisted in the definition of 'Similar Works' in the EQC. The Respondent No.1 contended that the documents submitted by the Petitioner with its Technical Bid failed to show the execution of the Horticulture Works at the Meerut Project. The Respondent No.1 contended that the documents failed to show even award of HVAC works within the scope of the Meerut Project. The Respondent No.1 submitted a tabular presentation[6] of its submissions on these two issues, which is as under:

SUBMISSIONS ON HORTICULTURE CRITERIA

	Averment of Petitioner	**What Petitioner's Own Documents Show**
1.	**WP, Statement of Facts, para 7(iv)(g) at pg 31:** "Horticulture works: expressly recorded in the Specific Conditions of Contract/Scope of Work of the Meerut Project as forming part of its scope, together with landscaping." **Rejoinder Para 18: at pg. 9** Annexure P-6 "expressly and specifically records horticulture, landscaping and HVAC systems as forming part of the project's contractual scope... as Specific Conditions binding the Petitioner."	**Annexure P-6, pg. 275** (Specific Conditions of Contract/Scope of Work, Meerut Project) - Item 28 "All Horticulture Works" Annexure only shows that work was only awarded and not completed.
2.	**Rejoinder para 20, pg 10**: relies on Annexure P-6 with PCC dated 11.06.2026 (97.51% physical / 95.10% financial) and status report dated 05.03.2026 (96.48% physical), arguing a project executed to that extent "cannot rationally be treated as one in	**Petitioner concedes the point:** An aggregate percentage cannot prove trade-specific execution- Petitioner - admits this AND then asks the Court to infer horticulture from that same aggregate.

[6] Dated 05.08.2026

	which the horticulture component was never undertaken at all." Same paragraph: "the Petitioner herein does not contend that an aggregate percentage figure, by itself, proves execution of any one particular trade."	The 53rd RA Bill (pg 333) and 55th RA Bill (pg 370) bury "Landscaping and Horticulture Works" inside the composite "External Site Development" head and not as an isolated percentage that can be verified.
3.	**Rejoinder para 20(a)-(c), pg 11**: Annexure-V "reserves the right to verify the documents... and shall conduct a visit"; "No verification of the Petitioner's documents was undertaken, and no visit was made... at any stage"; IRCON "disqualified the Petitioner... while omitting to undertake the very step which Annexure-V itself prescribed."	A failure to inspect does not manufacture a credential the Petitioner never produced. The onus was always on the Petitioner to submit a trade-specific horticulture certificate.

SUBMISSIONS ON HVAC CRITERIA

	Averment of Petitioner	What Petitioner's Own Documents Show
1.	**WP, Statement of Facts, para 7(iv)(b), pg 30:** "HVAC System: expressly forming part of the Specific Conditions of Contract of the Meerut Project." **WP para 7(iii), pg 29; Rejoinder para 18, pg 9**: same claim repeated - Scope of Work "expressly records horticulture, landscaping and HVAC systems... as Specific Conditions binding the Petitioner."	**False on the face of the document.** Annexure P-6 (pg 276-282) never once uses the words "HVAC," "air conditioning," "ventilation," or "chiller." Clause 1, pg 276, refers only to undefined "MEP services."
2.	**WP para 7(iii)/(iv)(b), pg 29-30; Rejoinder para 19(a), pg 9:** sanctioned approval dated 20.11.2025 for "extra items including air-conditioning (HVAC) works," said to	**The document itself says "Air-Conditioning", not HVAC.** "(HVAC)" is the Petitioner's embellishment. Annexure P-9, pg 290, Item 7 sanctions "AIR-

	be "issued only upon site measurement and verification of work actually carried out; it is not, and could not be, a paper exercise divorced from execution at site."	CONDITIONING WORK" – a rate sanction for future work. **The Petitioner's own bills disprove "verification of work actually carried out."** 53^{rd} RA Bill, pg 364, and 55^{th} RA Bill, pg 401, both record this exact item at 0.00% in every stage and every column.

[Emphasis Supplied]

(i) Whether the documents submitted by the Petitioner satisfy the requirement of evidence of experience of execution of Horticulture Works in Meerut Project as per the definition of the 'Similar Works' under the EQC?

17. The Petitioner has contended that the fact, that Horticulture Works is within the scope of the Meerut Project, is not in dispute. It contends that the Horticulture Works stand executed is the *logical inference* to be drawn by the TEC considering that the project Status Report dated 05.03.2026 downloaded from the PWD portal certifies 96.48% physical progress as well as handover of several buildings to the concerned client. The Petitioner contends that under the EQC, the Respondent No.1 also had an option to conduct a site visit if it desired to verify the execution of this component of the work. The submissions are set out in paragraph 20 of the rejoinder.

18. A conjoint reading of the relevant Clauses, Notes, and Explanations of the EQC at Annexure V of the Tender and Corrigendum No. 03 shows that the Tender required bidders to furnish Credentials expressly demonstrating experience of successful execution in each component of 'Similar Works'. The requirement was unambiguous and known to the Petitioner at the time of participation.

Explanation (i) and (iii) of the EQC enabled the bidder to produce either a Credential Certificate or a Provisional Completion Certificate for a 'substantially completed similar work', however, either Certificate must clearly record execution of the components set out in the definition of 'Similar Works'.

19. A perusal of the documents submitted by the Petitioner along with its Technical Bid dated 27.03.2026, shows that the Petitioner herein elected to rely upon Provisional Completion Certificate dated 30.07.2025 to show that it has the requisite credentials as per Explanation (iii) of the EQC. The said Certificate does not record completion of execution of the Horticulture Works.

20. The documents filed by the Petitioner do not, by itself, show execution and completion of the Horticulture Works at the Meerut Project. The said documents show that Horticulture Works were within the scope of the said project; however, they do not prove the execution of the said works.

21. In view of the Corrigendum-03 dated 24.02.2026 issued by the Respondent No.1, it was clear to the bidders that the Credentials Certificate must indicate the execution of the Horticulture Works, HVAC system and all the other components set out in the definition of 'Similar Works'. The relevant portion of the Corrigendum-03 dated 24.02.2026 reads as under:

S. N.	Clause Ref.	Existing Clause	Modified Clause
…	…	…	…
7.	Clause 1 of Annexure-V (Essential	Notes: "Similar works" shall mean	Notes: "Similar works" shall

	Qualifying Criteria)	"Project comprising Construction of RCC framed structure Building (Ground Floor + 2 Story or more) typically consisting of HVAC System, Fire Fighting Services, Plumbing Services, Electrical Works, external development and horticulture works."	mean "Project comprising Construction of RCC framed structure Building (Ground Floor + 2 Story or more) typically consisting of HVAC System, Fire Fighting Services, Plumbing Services, Electrical Works, external development and horticulture works." **Clarification**: In case a bidder has executed the work including first two components (RCC framed structure Building and Ground Floor + 2 Story or more), but not including all other small components (HVAC System, Fire Fighting Services, Plumbing Services, Electrical Works, external development and horticulture works) can be considered as similar work, only if he has executed all the six minor activities in combined credentials, qualified based on major components.

22. The Petitioner, therefore, had the option to request its client at Meerut Project to issue a Credential Certificate of the Meerut Project as per

Explanation (i) of the EQC certifying execution of the components set out in the definition of 'Similar Works'. However, no such Certificate was submitted.

23. In a tender involving 27 bidders, the TEC was required to assess each bid based on the documents furnished as prescribed in the EQC. The obligation therefore rested upon each bidder to ensure that its Credentials Certificate or Provisional Completion Certificate clearly and unambiguously demonstrated fulfilment of the eligibility requirements of having executed the components in the definition of 'Similar Works'. The TEC cannot be set to have acted illegally or arbitrarily in declining to draw inferences of completion of Horticulture Works in favour of the Petitioner based on documents submitted by the Petitioner/bidder on 27.03.2026. The suggestion of the Petitioner that TEC ought to have drawn an inference of completion of execution of Horticulture Works in the Meerut Project on the basis of the documents evidencing specific conditions of the contract which expressly records Horticulture as part of the project scope read with the project Status Report dated 05.03.2026 does not commend to us. The tender conditions for EQC are unequivocal. The Petitioner has not cited any reasons for its omission to submit a Credential Certificate that records the due execution and completion of the components of 'Similar Works' as defined. The Petitioner is thus liable to suffer consequences for its own omissions in failing to submit documents specifically evidencing the execution of the requisite components defined in the 'Similar Works'.

24. We also note that the Petitioner, by its subsequent e-mail dated 20.07.2026, submitted interim payment certificate ['IPC'] nos. 53[7] and 55,[8] which show that Horticulture Works have been substantially undertaken at the Meerut Project. However, the said IPCs were not submitted with the Technical Bid.

Clause 12.2 of the Instructions to Tenderer in Section III of the Tender categorically records that any documents received after the opening of the Tender shall be rejected. The relevant Clause is as under:

> **"D. Submission of Bids**
> 12 **Deadline for submission of tender**
> …
> 12.2 Any tender related documents received after opening of the tender shall be rejected.
> …"

In the present case, the Technical Bids were opened on 30.03.2026, and, therefore, the documents submitted *vide* e-mails dated 20.07.2026 and 24.07.2026 could not have been considered by the TEC. It appears that the Petitioner got a whiff of dissatisfaction of the TEC with the bid documents submitted on 27.03.2026, prompting the Petitioner to send an e-mail dated 20.07.2026 enclosing the IPCs. The TEC was well within its rights to not take into consideration the documents unilaterally submitted by the Petitioner vide e-mails dated 20.07.2026 and 24.07.2026.

25. In these circumstances, we are unable to hold that the view taken by the TEC, namely that the documents submitted by the Petitioner with the bid on 27.03.2026 did not establish execution of Horticulture Works, was arbitrary or unreasonable.

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[7] At printed page 359 of the paper book
[8] At printed page 395 of the paper book

26. Accordingly, the TEC's conclusion that the Petitioner had failed to demonstrate execution of the Horticulture component of the Meerut Project on the basis of the documents submitted with the bid on 27.03.2026 does not warrant interference.

(ii) Whether the Meerut Project satisfies the requirement of evidence of experience of execution of HVAC system component as part of the 'Similar Works' criteria under the EQC?

27. The Petitioner has contended that the HVAC system expressly forms part of the Specific Conditions of the Contract of the Meerut Project. It contends that this is evident from the sanctioned approval dated 20.11.2025 for extra items including air-conditioning.

28. The Respondent No.1 has taken a firm stance that this is a false assertion by the Petitioners.

It is stated that the Specific Conditions of the Contract of the Meerut Project do not refer to the HVAC system. It contends that even the sanctioned approval dated 20.11.2025 only refers to air-conditioning as an 'extra item', which is only one aspect of the HVAC system. It is stated that, moreover, the IPC no. 54[9] and IPC no. 55[10] of the Meerut Project filed by the Petitioner with an e-mail dated 20.07.2026 show that the work executed towards air-conditioning work is 0.00%.

29. We have perused the documents relied upon by the Petitioner to contend that the HVAC system forms part of the Meerut Project. We are unable to agree with the Petitioner. HVAC comprises heating, ventilation and air-conditioning systems. The sanctioned approval dated 20.11.2025

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[9] At printed page 331 of the paper book
[10] At printed page 368 of the paper book

shows that the air-conditioning item was approved as an 'extra item' on 20.11.2025. This approval shows that the air-conditioning system was not part of the original scope of work. Thus, the submission of the Petitioner that the air-conditioning system forms part of the Specific Conditions of the Contract appears to be untrue and is not proved from any documents.

30. Having perused the IPC No. 54 and IPC No. 55, we further agree with the Respondent No.1 that the said IPCs show that 0.00% of the air-conditioning work has been executed as on the said date. Thus, even though the air-conditioning system was approved as an 'extra item', the proof of execution of the air-conditioning work is not evident from the said documents.

In addition, there is no proof at all that the scope of the work of the Meerut Project included provision of heating and ventilation in the buildings.

31. The opinion of the TEC that the documents submitted by the Petitioner fail to show execution of the component of the HVAC system in the Meerut Project is therefore reasonable and justified.

32. As noted above, the Tender required the bidder to furnish credentials through a Credential Certificate or a Provisional Completion Certificate or a Completion Certificate expressly demonstrating experience of successful execution in each component of 'Similar Works'. The requirement was unambiguous and known to the Petitioner at the time of participation. The Certificate should have expressly recorded the due execution of the components set out in the definition of 'similar work'. The TEC was therefore entitled to evaluate and assess compliance of the criteria of

'substantially completed similar work' by the bidder based on the experience evident from the face of the Certificate submitted along with the Technical Bid. The documents such as LOA, scope of work, IPCs could be corroborative documents which TEC may look into to satisfy itself as regards the scope of work. However, TEC cannot be expected to undertake a deep-dive investigation of the plethora of documents submitted by a bidder to infer eligibility of the said bidder for the components of similar work. This is not the nature of assessment which TEC has to undertake at the evaluation stage.

33. It is well settled that, in tender matters, the scope of judicial review is limited. The Court does not sit in appeal over the merits of the evaluation and ordinarily interferes only where the decision-making process is shown to be arbitrary, discriminatory, mala fide or procedurally wrong. In the present case, no such infirmity is made out. We therefore find no ground to interfere with the decision of the TEC rejecting the Petitioner's bid.

34. We, however, note that the Respondent No.1 had also urged as one of its grounds the fact that the Provisional Completion Certificate dated 30.07.2025 submitted by the Petitioner with its Technical Bid is issued not more than 60 days prior to the NIT and therefore, does not satisfy the requirement of Explanation (i) of the EQC. This submission of the Respondent No.1 does not persuade us. The term Credentials Certificate in Explanation (i) to the EQC is distinct from the term Provisional Completion Certificate in Explanation (iii) to the EQC. Explanation (iii) does not stipulate that a Provisional Completion Certificate should be issued not more than 60 days prior to the NIT. The Petitioner's bid can therefore not be

rejected on this ground; however, this issue has become academic since we have upheld the disqualification of the Petitioner's bid on the other grounds cited by TEC as recorded hereinabove.

35. We also note that the Petitioner in its rejoinder has challenged the technical qualifications of the L1 and L9 bidder. We have not examined the said challenge as it is settled law that at the instance of a disqualified bidder, the Court will refrain from entertaining a challenge to the qualifications of the qualified bidders. The aforesaid submissions of the Petitioner are accordingly rejected. [Re: **Tata Motors Limited v. Brihan Mumbai Electric Supply and Transport Undertaking (BEST) and Others**][11].

36. In view of our aforesaid findings, the petition is dismissed. Pending applications, if any, are disposed of.

MANMEET PRITAM SINGH ARORA, J

V. KAMESWAR RAO, J

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[11] (2023) 19 SCC 1 at paragraph 51