

Serial No.19
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

WP(C). No. 117 of 2022

Date of Order :26.07.2023

Shri. Bistarjun Lyngkhoi

Vs. State of Meghalaya & Ors.

Coram:

Hon'ble Mr. Justice H.S.Thangkhiew, Judge.

Appearance:

For the Petitioner/Appellant(s) : Mr. H.L.Shangreiso, Sr. Adv. with
Mr. P.Dohkrut, Adv.
Mr. T.Dkhar, Adv.

For the Respondent(s) : Mr. S. Sen, Sr. GA with
Ms. R.Colney, GA.
Mr. A.Momin, GA.

i) Whether approved for reporting in Law journals etc: Yes/No

ii) Whether approved for publication in press: Yes/No

(ORAL)

1. The instant matter concerns a Short Notice Inviting Tender dated 9th March, 2022, for Retrofitting in Madanbitaw Combined Water Supply Scheme. The said project is under the Jal Jeevan Mission, a scheme

wherein community participation is called for its implementation. However, in case the village by itself cannot implement the scheme, the concerned department was to execute the work. It is in this backdrop, that the above Short Notice Inviting Tender was floated.

2. The grievance of the writ petitioner is that apart from other issues dealing with the recommendation and tendering of 5% amount as stipulated by the scheme, is that the tender of the bidders, numbering 3 in number, were opened by the respondent No. 6 in their absence. On this apprehension by the writ petitioner that the tender process not being transparent, has been vitiated by the absence of the bidders, the prayer made in the writ petition is for quashing any decision taken by respondent No. 6 pursuant to the opening of the tenders.

3. Mr. H.L.Shangreiso, learned Sr. counsel assisted by Mr. P.Dohkrut, learned counsel for the petitioner submits that at this stage however, on the affidavit filed by the State respondents at paragraph 5, which has detailed the Meghalaya Delegation of Financial Powers (Amendment) Rules 2021, it is shown that the Chief Engineer/Additional Chief Engineer is the competent authority for opening of tenders to settle the bids and not respondent No.6. He submits that as the tenders have also been opened, what remains is only for the finalization of the bids by the Additional Chief Engineer.

4. Mr. S.Sen, learned Sr. GA appearing for the State respondents submits that the writ petition has died a natural death, inasmuch as, the relief sought for by the writ petitioner at this stage is not possible as the tender has since been opened. He further submits that the relief prayed for now, which amounts to moulding the relief cannot be considered by this Court. In this regard, the learned Sr. GA has placed the following decision:

(2010) 1 SCC 234 Bharat Amratlal Kothari & Anr. vs. Dosukhan Samadkhan Sindhi & Ors.

5. Heard learned counsel for the parties.

6. From the submissions and materials placed on record, the fact that the tenders has since been opened cannot be disputed, as also the fact that the work is yet to be settled with any of the bidders. The apprehension of the writ petitioner, it appears, is based on the understanding that the Executive Engineer who had opened the tenders was the final authority in settling the bids, and by the petitioner not being present at the time of the bid opening feels that he has been unfairly treated.

7. It is to be noted that this project is in public interest and involves water supply to the concerned villages for which any delay will be to the detriment of the villagers. In this view of the matter, therefore, without going or delving into the facts of the case, this Court deems it fit to direct that the bids which have been submitted and since opened, be settled

finally by the competent authority i.e., respondent No. 4, and to award the work in accordance with law. It is expected that, as noted earlier, as the project is in public interest, that the matter shall be dealt with expeditiously and decided preferably within a period of four weeks from the date of this order.

Judge

Meghalaya
26.07.2023
"Samantha PS"

