

3 22.4.19
akb Ct. No. 2

**Circuit Bench of Calcutta High Court
at Jalpaiguri**

W.P.A. 15 of 2019
Loknath Enterprise
-Versus-
The State of West Bengal & Ors.

Mr. Samar Kumar Basu ...For the Petitioner

Mr. Joyjit Dutta
Mr. Bikramaditya Ghosh
Ms. Bedashruti Bose ...For the State

Mr. Debasish Mukhopadhyay
Mr. Santanu Bhowmic ...For the Respondent
No. 4

Pursuant to the direction passed by this Court a report in the form of an affidavit has already been affirmed by the authorized Officer representing the State respondents. From the report it appears that the amount of 'major item' for the aforesaid work was indicated to be for Rs. 97,72,030/- (Rupees ninety-seven lakh seventy-two thousand and thirty) only as indicated at page No. 5 of the concerned e-NIT. Clause 7(III) of the e-NIT, monetary values of each of the 'major items' or conglomeration of items froming a major item contained in the BOQ of this e-tender is to be multiplied by a factor 0.40 to arrive at the minimum required technical PQ credential in terms of execution of similar items and the same has been clearly stated in the tender notice, particularly, in the list of works under column 8 thereof. In terms of the said conditions, the minimum gross notional value in respect of the above 'major item', as desired was Rs. 39,08,812/- (Rupees thirty-nine lakh eight thousand and eight hundred twelve) only. This amount of Rs. 39,08,812/- has clearly been mentioned in page 39 of the writ petition that is page

5 of the tender notice as aforesaid dated april 09, 2018.

It is the specific case of the State respondents that the petitioner did not offer the said amount nor could he furnish any credential for the said amount, nor could he satisfy the authority that he is ready to pay the said minimum amount. His offer was never uploaded in the portal, as a result of which the offer made by the petitioner was not accepted by the tender Authority and it is the specific case that the lowest bidder has been allotted with the work-order.

Learned Advocate appearing for the State further submits that the person in whose favour such allotment has been made has almost completed 75% of the work allotted. The authority submits that there being no option but to complete the work keeping in mind that monsoon is approaching very soon, the State is not in a position to delay the project.

Learned Advocate for the State submits that the petitioner had other remedy by way of approaching the departmental authorities as indicated in Clause 14.4 at page 37 of the tender document (page 49 of the writ petition). Without approaching the authority concerned within stipulated time he had demanded justice by a letter and thereafter filed the writ petition, obviously to delay the whole process.

The writ petitioner has failed to satisfy this Court as to fulfilling his requirement under the tender notice and there is no justification to interfere

with the allotment of tender already made in favour of the respondent No. 4. However, the petitioner submits that he is entitled to compensation from the authority for the laches on their part. If that be so, the petitioner may have remedy before other forum if he is so advised but not before Writ Court.

The writ petition is accordingly dismissed.

There will be no order as to costs.

Urgent Photostat certified copy of this order, if applied for, be given to the parties, on priority basis.

(*Sahidullah Munshi, J.*)