

20.10.2020
Court No. 19
Item No.12 (SL)
CP

WPA 8579 of 2020
with
CAN 1 of 2020

Faroz Ali Shaikh
vs.
The State of West Bengal & ors.

Mr. Partha Sarathi Bhattacharyya, Sr. Adv.,
Mr. Tanweer Samil Mandal,
Ms. Somashree Dey.

.....for the petitioner.

Mr. Tapas K. Bhattacharya,
Mr. Aviroop Bhattachaya.

....for the respondents 2 and 3.

Mr. Imtiaz Ahmed,
Mr. Sougata Mitra.

....for the respondent no. 4.

By this writ petition, the petitioner who participated in an auction/settlement of a ferry ghat under the Katwa Municipality pursuant to a notice dated August 24, 2020, has challenged the subsequent notification for bids from interested parties for settlement of the same ferry ghat dated October 8, 2020 in cancellation to the earlier notification dated August 24, 2020.

It is submitted by the petitioner that the earlier bid was opened. The L1 and L2 bidders were not interested to take the settlement and the petitioner being the L3 bidder had expressed his willingness to

take the settlement and have requested the authority to consider his candidature. Surprisingly, the said representation of the petitioner was not considered and, on the contrary, another tender notice was floated on October 8, 2020. It is the submission of the petitioner that the municipality in order to favour some participant had cancelled the earlier tender notice and issued another tender notice without due compliance of the procedure. It is further submitted that the resolution of the Board of Administrators was not even adopted before the earlier tender notice was cancelled and the new tender notice was issued.

Mr. Tapas Bhattacharya, appearing on behalf of the municipality, submits that on September 29, 2020, a resolution was taken by the chairperson of the Board of Administrators for holding a second auction. He further submits that the first auction was cancelled because the offer of the petitioner was low. Although the offer of the other participants were high, they were not willing to participate.

Mr. Ahmed, learned advocate appearing on behalf of the respondent no. 4, submits that he is one of the members of the Board of Administrators and no such resolution was adopted by the Board for calling for a fresh tender. An objection was raised by the respondent no. 4 before the Chairperson of the Board of Administrators dated October 16, 2020.

These are disputed questions of facts which cannot be gone into at this stage.

It is submitted by Mr. Bhattacharya that a decision has been taken to settle the ferry ghat in respect of the successful bidder who has not been impleaded in the proceedings. Although an application for addition of party of the successful bidder has been filed today.

However, I do not find any reason to keep the writ petition pending because I find that the successful bidder is due to start his operation from October 22, 2020.

From the resolution handed over by Mr. Bhattacharya, prima facie, it does not appear that it is a resolution of the Board but a decision of the chairperson of the board of administrator. Thus, this Court finds that the objection of the parties should be taken into consideration by the Board of Administrators before the successful bidder is allowed to operate on and from October 22, 2020.

Moreover, no interim order can be passed at this stage. Yet, as there is some urgency in the matter and there are allegations of mala fide and arbitrariness, in my opinion, this matter should be resolved by the Board of Administrators at a meeting to be held in presence of the members. The petitioner shall file an objection within 3 pm today and hand over the same to the advocate-on-record of the Katwa

Municipality in Court. The learned advocate-on-record for the Katwa Municipality shall instruct his clients, i.e, Board of Administrators, Katwa Municipality to call all parties concerned for a hearing on October 21, 2020. If parties do not co-operate then the Board shall decide the matter in the absence of such party.

Mr. Bhattacharya is requested to use his good offices to instruct his clients accordingly as the Court is conscious of the fact that the municipality is closed for puja vacation. Such meeting of the Board of Administrators will be held on October 21, 2020 at 12 noon. The petitioner, the respondent nos 4 and 6 as also the successful tenderer will be called to participate in the said hearing. A reasoned order will be passed and communicated to all the parties within 5 pm, on October 21, 2020 by personal service. The operation of the ferry ghat will be subject to the decision of the Board of Administrators to be taken on October 21, 2020.

With the above observation, the writ petition is disposed of. There shall be no order as to costs.

All parties are to act on a server copy of this order on usual undertakings.

(Shampa Sarkar, J.)