

14<sup>th</sup> December,  
2020  
(AK)  
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**W.P.A. 10074 of 2020**

Manikchak Astha Welfare Society & Anr.  
Vs.  
The State of West Bengal & Ors.

Mr. Ramdulal Manna  
Mr. Mukteswar Maity  
Mr. Sayan Mukherjee

...For the Petitioners.

Mr. Jishnu Chowdhury  
Mr. Shamim ul Bari

...For the State.

The grievance of the petitioners is that the petitioners were successful in an auction regarding the tender of services in respect of a public *ferry ghat*.

However, despite the petitioners having been accepted as the successful bidders and being asked to deposit the requisite amount, the petitioners subsequently found out that such deposit was refused on the part of the respondent authorities on the pretext that some subsequent auction had been held regarding the self-same subject-matter.

Learned counsel for the petitioners, by comparing the bid sheets of the two auctions (both of which have been annexed, at page- 21 and 32 of the writ petition respectively), argues that, in any event, the petitioner had offered a much higher amount than the successful bidder

in the second bid (who had also participated in the previous bid) in both the bids.

Learned counsel, by relying on the deposit slip of the amount deposited by the successful bidder in the second bid (annexed at page-34 of the writ petition), highlights that the same indicates that the successful bidder in the second bid had drawn one of the demand drafts, used for such payment, on September 8, 2020, whereas the alleged cancellation of the first auction took place subsequently.

Learned counsel appearing for the respondent authorities argues that there was a valid cancellation vide a notice dated September 23, 2020, a copy of which is handed over in court today by the respondents.

Moreover, it is argued that the petitioner had failed to deposit certain documents, which were pre-requisites for operating a *ferry ghat*.

Upon hearing both sides, certain things are crystal-clear. First, the purported cancellation letter issued to the present petitioner was dated on September 23, 2020, whereas the demand drafts, deposited by the successful bidder in connection with the second bid, were drawn on September 8, 2020 and on October 6, 2020 respectively.

Even if the contention of the respondents, that the petitioner had failed to meet necessary criteria, is accepted, it is beyond all logic as to how the successful bidder in the second auction anticipated that he would be accepted as the successful bidder in the second bid,

before the first auction was cancelled, and drew the first draft previous to such cancellation.

Moreover, learned counsel for the petitioner rightly argues that once the petitioner was accepted as a successful bidder and directed to put in the requisite amount for the tender of the *ferry ghat*, the respondents could not, in law, resilie from such position and unilaterally cancel the previous bid.

Apart from the fact that the respondents would be barred by Estoppel, which principle may at the worst have an arguable application in case of Governemnt Authorities, the previous auction process was completed when the petitioner tendered the requisite amount after being declared as a successful bidder.

Such position cannot have been reversed, since the same had attained finality when the petitioner tendered the requisite amount.

Moreover, the circumstances as discussed above raise considerable doubt as to the bona fides of the respondents in purportedly cancelling the first auction and holding the second auction, in the process accepting a bid which was, in any event, much lower than that offered by the petitioner even in the first auction.

The gravity of the mala fide conduct is aggravated by the fact that the successful tenderer in the second auction had also participated and failed in the first auction.

In such circumstances, it is evident that the floating of the second auction and the entire process of the second auction were mala fide, arbitrary and patently illegal. Hence, the said second auction has to be cancelled.

Accordingly, W.P.A 10074 of 2020 is allowed, thereby setting aside the notice of the second auction (annexed at page-23 of the instant writ petition) and all consequential action taken in such auction.

Contract, if any, granted in favour of the private respondent no. 12 pursuant to the second auction stands hereby cancelled.

The respondents are directed to fix a date for deposit of the requisite amount pursuant to the petitioner's bid in the first auction at the earliest, giving the petitioner at least a week's time to make such deposit. The first auction is hereby re-validated and cancellation of the same, if any, stands set aside.

There will be no order as to costs.

Urgent photostat copies of this order, if applied for, be given to the parties upon compliance of all requisite formalities.

**(Sabyasachi Bhattacharyya, J.)**