15.12.2020
DL-UL
ns Ct.4

WPA No. 10831 of 2020

Sri Kaushik Paul.
Versus
Bidhannagar Municipal Corporation & Ors.

Mr. Debajyoti Basu,
Mr. Barun Chatterjee ... for petitioner.

Mr. Basu, learned advocate appears on behalf of petitioner and moves this writ petition unlisted, citing urgency. He submits, his client challenges reasoned order dated 26th November, 2020, by which the tender process was cancelled, on finding that petitioner did not have required credential.

He refers to notification dated 18th March, 2015 causing amendment to rule 226(1) of PWD Code. Relevant is that the rule requires, in context of petitioner, for him to produce credential of having done similar nature of completed work of minimum value of 40% of the estimated amount put to tender, during five years prior to date of issue of the tender notice. He points out from certificate dated 14th February, 2020 that best credential produced by his client, as certified by Bidhannagar Municipal Corporation, is that petitioner's final bill amount of Rs.27,03,962/- (including GST and LW cess) was admitted. Notice inviting e-tender dated 8th January, 2020 put tender amount at Rs.60,39,723/-. His submission is that the reason given for rejecting his client's credential and thereafter cancelling the tender must be set aside and quashed since his client qualifies.

On query from Court, he submits, GST is 12% of bill amount while LW cess is 1%. 12% of Rs.27,03,962/- is approximately Rs.3,24,475/-. 1% of said final bill amount is approximately Rs.27,039/-. Therefore, final bill amount, as per said certificate dated 14th February, 2020, works out to Rs.23,52,448/-. Court has gone into the arithmetic to also find that 40% of said tender amount is Rs.24,15,889/-. Petitioner's credential on final bill amount, per said certificate, is less than the 40% figure. Final bill amount less GST and LW cess is the amount to be reckoned because 40% of tender amount does not include either tax or cess. Keeping aside minor arithmetical mistakes, fact is that petitioner does not qualify on credential, per rule 226 in PWD Code. The employer has cancelled the tender based on lack of credential of petitioner. There is no case for interference.

At this stage Mr. Basu submits, his client's credential cannot be reckoned on final bill amount less GST and LW cess as from said certificate. It has to be reckoned from estimated amount put to tender, which as per the certificate is Rs.38,79,834/- (including GST and LW cess). This submission is not accepted because said notification dated 18th March, 2015 requires credential to be produced is 'similar nature of completed work of minimum value'. This minimum value must be 40% of the estimated amount put to tender by the NIT. The arithmetic has been done above.

Writ petition dismissed.

(Arindam Sinha, J.)