

28.01.2021
SL No.54
Court No.24
(P.M.)

WPA 318 of 2021

**S.S. Construction
Vs.
The State of West Bengal & Ors.**

Mr. Srikanta Datta
... for the petitioner

Mr. Sakya Sen,
Mr. S.K. Gupta,
Mr. Hasibul Islam
... for respondent No. 2 to 4.

Mr. Susovan Sengupta
Mr. Manas Sadhu
..... for the State.

The petitioner was awarded contract for running the Gorabazar Ferry Ghat under the Berhampore Block, District Murshidabad for a period of one year. The lease of the petitioner expired on 31st December, 2020.

The case of the petitioner is that in view of the lockdown imposed by the Government he was not in a position to operate the Ferry Ghat for 83 days in total. All the dates in which he could not operate were lockdown days and there was no fault on his part for not operating the Ferry Ghat. The petitioner claims that he has suffered huge monetary loss because of non-running of the Ferry Ghat.

The Murshidabad Zilla Parishad has issued a fresh notice inviting E-auction on 30th December, 2020. The corrigendum notice inviting E-auction was published by the Murshidabad Zilla Parishad on 13th January, 2021. The last date of submission of the documents is 29th January, 2021.

The petitioner has made an application before the Additional Executive Officer of Murshidabad Zilla Parishad on 4th January, 2021 praying for extension of his lease period upon payment @ 10% in excess of what he had paid for the year 2020.

The petitioner submits that upon consideration of his representation the authority has permitted him an extension of only 59 days. The petitioner prays that as he has lost 83 valuable days in view of the lockdown imposed by the Government the authorities ought to permit him to run the Ferry Ghat for the balance period of 83 days as the authorities had accepted the lease rent for the entire period of the year.

The learned advocate representing the Murshidabad Zilla Parishad submits that the petitioner does not have a legal right to pray for extension of the period of lease. His lease period expired in December, 2020 but on humanitarian ground, upon consideration of the petitioner's representation, 59 days extra have been permitted by the Zilla Parishad to run his business. The petitioner cannot as a matter of right claim extension for 83 days.

It has also been submitted that the petitioner ought to approach the appropriate forum if the petitioner is at all aggrieved by the action of the authorities in not extending the period of lease as the same falls in the realm of a contract.

After hearing the submissions on behalf of the parties, it appears that the period for which the petitioner could not perform his business was in view of the lockdown imposed by the Government.

The Zilla Parishad has already taken a decision to extend the period of lease of the petitioner for 59 more days. The Zilla Parishad may consider the prayer of the petitioner for extending the period of lease for 24 more days, so that the 83 days which the petitioner lost in view of the lockdown can be utilized by him. In the meantime, the Zilla Parishad can also take steps for finalization of the bill in terms of the notice inviting E-auction for the year 2021-2022.

The respondent authorities shall also consider the prayer of the petitioner for extension of the period of lease for a further period of one year upon payment of necessary fees, in the event, there is no proper bid in the fresh tender process in respect of the Gorabazar Ferry Ghat from the intending participants.

The Murshidabad Zilla Parishad shall take a decision with regard to the prayer of the petitioner within a period of one week and communicate the decision to the petitioner immediately thereafter.

The petitioner shall be at liberty to participate in the fresh tender process which is under progress at present.

WPA 318 of 2021 stands disposed of.

Urgent photostat certified copy of this order, if applied for, be given to the parties on completion of usual formalities.

(Amrita Sinha, J.)