

116
08.02.2021.
d.p.

**W.P.A 3392 of 2021
(Via Video Conference)**

**M/s. Classic Advertising
-versus
The Kolkata Municipal Corporation & Ors.**

**Mr. Dipanjan Sinha Roy.
...For the Petitioner.**

**Mr. Alok Kumar Ghosh,
Ms. Piyali Sengupta,
Ms. Manisha Nath.
...For the KMC.**

Affidavit-of-service filed in Court today is taken on record.

Pursuant to a notice inviting e-tender published by the Kolkata Municipal Corporation for construction and right to display an advertisement on the street lamp kiosk, the petitioner intends to participate in the said e-tender.

Two clauses of the said NIT are standing in the way of the petitioner from participating in the same. For the purpose of participation, the bidder has to obtain a 'No Outstanding Certificate' from the Advertisement Department of Kolkata Municipal Corporation and to file a declaration to the effect that any of the bidder's sister concern does not have any outstanding with the Advertisement Department, Kolkata Municipal Corporation.

A further declaration has to be submitted that any of the bidder's sister concern/Company which has

been engaged in any kind of activity related to advertisements to the Kolkata Municipal Corporation do not have any litigation and outstanding with KMC on behalf of the Company.

According to the petitioner, there was a demand for payment of Rs.1,18,49,092/-, which the petitioner challenged by filing a writ petition being W.P. No. 24206 (W) of 2015. The said writ petition was disposed of by the Court on 18th September, 2019 whereby the Court was pleased to set aside the demand only with regard to the Land Utilization Charges to be paid by the petitioner.

The petitioner submits that the land utilization charges amounted to a sum of Rs.1,10,37,377/-. The petitioner submits that the balance amount from the total sum of Rs.1,18,49,092/- has been cleared by the petitioner and no amount is due and outstanding from the petitioner on account of unpaid advertisement fees of the Kolkata Municipal Corporation.

The petitioner further submits that the judgment of the Court dated 18th September, 2019 has been taken up in appeal by the Kolkata Municipal Corporation and the appeal is pending. The stay application has also not been listed and no order has been passed in the said appeal till date.

It has been submitted that apart from the above, no other litigation is pending in between the parties.

The petitioner prays for a direction upon the Kolkata Municipal Corporation for permission to participate in the tender process.

The learned advocate appearing for the Kolkata Municipal Corporation submits that admittedly litigation is pending in between the parties. It has candidly been submitted that steps were taken for enlistment of the appeal but the same has not appeared in the list till date.

From the submissions made on behalf of both the parties, it appears that demand which was raised by the Kolkata Municipal Corporation included the Land Utilization Charges and the advertisement fee. The demand on account of Land Utilization Charges has been set aside and quashed by the Court. The petitioner has cleared the dues on account of advertisement fee.

Though the order passed by the Learned Single Judge has been taken up in appeal, but admittedly, as on date, there is no order either modifying or varying or setting aside the same. The pendency of the appeal filed by the Kolkata Municipal Corporation, ought not to stand on the way of the petitioner from participating in the tender process. It further appears that apart from the above, there is no other litigation pending in between the parties.

Accordingly, the instant writ petition is disposed of by directing the Kolkata Municipal Corporation to permit the petitioner to participate in the tender process without filing the 'No Outstanding Certificate' and the declaration with regard to no litigation.

The last date for filing e-tender is 9th February, 2021 till 1 p.m.

The Kolkata Municipal Corporation shall not insist upon the petitioner for production of the 'No Outstanding Certificate' and the 'no litigation' declaration and permit the petitioner to participate in the tender process along with other relevant documents that are required, subject to compliance of all other necessary formalities.

In the event the petitioner is successful in the tender process, steps shall be taken by the Kolkata Municipal Corporation strictly in accordance with law.

W.P.A. 3392 of 2021 is disposed of.

Urgent photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Amrita Sinha, J.)