

S/L No.32
20.12.2021
Ct-13
(AD)

(Through Video Conference)

WPA 3457 of 2021

M/s. Sudeb Kumar Banerjee & Ors.
vs.
The State of West Bengal & Ors.

Mr. Pradip Kudmar Dutta, Sr. Adv.
Mr. Chanchal Kumar Dutta
Ms. Krishna Mullick

...for the petitioners.

Mr. Arjun Ray Mukherjee
Mr. Joyjeev Medhi

... for the State.

The writ petitioner is aggrieved by non-compliance of the terms of contract by the respondent-West Bengal State Rural Development Agency under the terms of contract being standard bid document for the Pradhan Mantri Gram Sadak Yojana to construct and maintain a road. The petitioners had agreed to so construct road on the terms mentioned therein.

It is submitted that there are some issues with regard to the performance of contract and there is no consensus between the parties on such score. The respondents have invoked a bank guarantee which they could not succeed in encashing.

The petitioner in terms of a particular clause being 24 of the Contract has invoked the dispute redressal mechanism. It is submitted that the respondents have not responded

This Court is of the view that the matter is purely

in private domain. Indeed as argued by Mr. Dutta, the respondents are all public bodies. The project is also under the E- Pradhan Mantri Gram Sadak Yojana. That by itself could not attract the writ jurisdiction under Article 226 of the Constitution of India. The State in the instant case has acted under a private agreement with the petitioners and there is no public element demonstrated and there would be disputed questions of fact.

In that view of the matter, the remedy of the petitioners is before an appropriate civil forum. The writ petition shall therefore stand dismissed without any order as to costs.

However, the dismissal of the writ petition shall not prevent the respondents from acting in terms of the said contract and/or dealing with the letter dated 23rd December, 2020 addressed by the petitioner.

WPA 3457 of 2021 is dismissed.

All parties shall act on the server copy of this order duly downloaded from the official *website* of this Court.

(Rajasekhar Mantha, J.)