

01.
09.03.2021.
Ct. No. 11.
F.B.

**MAT 261 of 2021
with
IA No. CAN 1 of 2021**

**Domkal Thana Ferry Patuny Samabay Samity Ltd.
-Vs.-
The State of West Bengal & Ors.**

**Mr. Kamalesh Bhattacharyya,
Mr. Shahan Shah
..... For the Appellant.**

**Mr. Susovan Sengupta,
Mr. Manas Kumar Sadhu
..... For the State.**

**Md. Sarwar Jahan,
Mr. Firoze Hassan
..... For the Respondent
Nos, 4 & 5.**

Under challenge in this appeal is the order of the Hon'ble Single Bench dated 24th of February, 2021 in the writ petition being WPA 5462 of 2021. By the order impugned the Hon'ble Single Bench had allowed the respondents to proceed in accordance with law for publication of a fresh notification for auction of Ferry Ghats.

This Court is informed that under scrutiny in the writ petition and thereafter in this appeal are a total of 19 Ferry Ghats which have been permitted to be auctioned.

Mr. Bhattacharyya, Learned Counsel, appears for the appellant/the writ petitioner.

The State Respondents are represented by Mr. Sengupta, Learned Senior Government Advocate.

The concerned Panchayat Samity namely, the Domkal Panchayat Samity, is represented by Mr. Jahan, Learned Counsel.

Parties have placed extensive arguments on the merits of the order of the Hon'ble Single Bench opining ultimately in favour of a fresh auction process.

After having heard the parties, this Court is of the view that once the tenure of a tender offer has expired, lawful steps would have to be taken to call a public auction for the next tenure. Essentially therefore, this Court does not find that the process of a public auction in respect of public utility projects can at all be an arguable point.

Therefore, this Court does not find any demerit in the view taken by the Hon'ble Single Bench that the fresh auction can be proceeded with on the basis of the new notification in accordance with law for the Ferry Ghats in issue.

However, this Court at the same time finds a factual detail raised by Mr. Bhattacharyya to be worthy

of mention. Referring to a resolution signed by the Sabhapati, Domkal Panchayat Samity and taken by members of *Artha Sanstha Unnayan O Parikalpana Sthayee Samity* dated 18th of February, 2021, it is submitted that the said *Sthayee Samity* could not have resolved to bar the appellants from removing their boats and other infrastructure on the Ferry Ghats earlier being operated by them. This Court finds that since the earlier engagement of the appellants as Ferry Ghat operators has reached a closure with the order of the Hon'ble Single Bench directing a fresh tender process to take effect and, the parties involved, in view of the order of the Hon'ble Single Bench, do not press any further or other claim on each other, the appellants be permitted to remove their infrastructure within a period of ten days from this date.

The above direction is passed keeping in view the stand taken on behalf of the respondents at the hearing before this Court that the respondents undertake that public inconvenience shall not be caused once the appellants are permitted to remove their infrastructure.

With the consent of the parties, the appeal, being **MAT 261 of 2021** and the application, being **CAN 1 of 2021** stand thus **disposed of**.

Since affidavits are not invited, all other allegations which are not the subject matter of discussion in this appeal, are deemed to be denied and disputed.

All parties to act in terms of the copy of the order downloaded from the official website of this Court.

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

(Hiranmay Bhattacharyya, J.) (Subrata Talukdar, J.)