

27 16.03.2021
Sc

W.P.A. 6801 OF 2021

(Through Video Conference)

Kishalay Decorators & Ors.

Vs.

State of West Bengal & Ors.

Mr. Sidhartha Banerjee
Mr. Rahul Karmakar
Mr. Abirlal Chakravorti.

.... For the Petitioners

Mr. Sakya Sen
Ms. Sutapa Sanyal.

.... For the State

Mr. Dipayan Choudhury
Mr. Shuvradal Choudhury
Ms. Priyanka Choudhury
Mr. Rijit Chakraborty.

....For the Respondents
No. 2 & 3.

1. This is an application under Article 226 of the Constitution of India wherein the writ petitioners are aggrieved by a 'NOTICE INVITING e-QUOTATION' dated February 24, 2021 with reference to '*Election works relating to D.C.R.C. Counting Centre and other infrastructural arrangements*' at four constituencies.

2. The contention of the petitioners is that by an earlier tender notice dated January 14, 2021, a tender was submitted by the petitioners and other persons and the process is completed. The nature of work in the earlier tender is very much similar to the present new tender that has been issued. Accordingly, the petitioners submit that the new tender is a repetition of the earlier tender and should not be allowed to stand. The

petitioners further submit that an onerous condition has been attached to the present tender allowing only the persons, who have carried out works in the last five years under the P.W.D. at Kolkata jurisdiction, to apply for the said tender. According to the petitioners, this condition is violative of Article 14 of the Constitution of India.

3. Mr. Dipayan Choudhury, counsel appearing on behalf of the District Election Officer has fairly submitted that the first tender itself may suffice and if the petitioners and other persons, who have been given the tenders, undertake to carry out the work in a time-bound manner, work orders can be issued in their favour for any additional work, if any.

4. Ms. Sutapa Sanyal, counsel appearing on behalf of the State submits that a second tender was only issued upon the requisition made by the District Election Officer and since the matter required a time-bound manner of completion, the condition as mentioned above had been added to ensure that the work was completed within time. She further submits that they have no objection in withdrawal of the second tender notice.

5. It is to be noted that the second tender has already been delayed and since the election is a time-bound matter, it would be better for the District Election Officer to issue the work orders to the petitioners and other persons who have already selected in the first tender process.

6. In light of the same, the second tender notice dated February 24, 2021 is quashed and set aside with a direction upon the District Election Officer to allot the works by way of work orders to the petitioners and the other successful contractors of the first tender notice dated January 14, 2021.

7. With the above direction, the writ petition is disposed of. There will be no order as to costs.

8. Since no affidavit-in-opposition is called for, the allegations made in the writ petition are deemed not to have been admitted.

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

(Shekhar B. Saraf, J.)