

08-07-2021
Item No.14
Subrata

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

WPA(P) No.174 of 2021
Tapan Kumar Saha
-vs-
The State of West Bengal & Ors.

Mr. Kallol Basu
Mr. Nilanjan Pal
Mr. Samik Sarkar ...for the petitioner

Mr. Somnath Sen
Mr. Amitava Mitra ...for the State

Mr. Biswaroop Bhattacharya
Mr. Debasish De
Ms. Debanjana De ...for respondents no.17 & 18

This is a purported public interest litigation where the principal prayer is as follows:-

“A Writ or and/or the nature of Mandamus directing the respondent authorities concerned and/or their men, servants, agents, and/or assigns to cancel and/or set aside and/or withdraw and/or quash the Work Order being 349-HS(MS)/HF/O/HS(MS)/BMW-01/2019 was issued on 29.11.2019 in the name of Consortium of M/s Spectrum Waste Solution Private Limited and M/s SNG Mercantile Private Limited for scientific disposal of Bio-Medical Waste arising out COVID-19 treatment compliance of the said BMW Rules by the Department of Health and Family Welfare, Government of West Bengal.”

Contract/contracts have been awarded by the State government in favour of respondent nos.17 and 18 for management and removal of bio-medical waste generated in the treatment of COVID-19 patients.

The case sought to be made out in the petition briefly is that the public respondents in breach of the existing rules have awarded those contracts to the private respondents – respondent nos.17 and 18. Furthermore, the

beneficiaries of these contracts are not discharging their duties properly.

First, the credibility of the petitioner is to be seen. He says that he is a public-spirited person who resides close to the Infectious Diseases Hospital at Beliaghata, Kolkata. That is all. He does not disclose his technical expertise to assess the correctness of the award of contract and the quality of performance of the work thereunder. He also does not disclose any information he has received from persons to be affected by mishandling of the work and the consequences that would flow from it.

COVID-19 is a national crisis. Both the Central and the State governments are putting all their resources together to help the people of this country to survive this pandemic. The award of contracts for disposal of bio-medical waste is part of the entire work that the governments are trying to do.

This is a policy matter. The court should be slow to intervene in it and must only intervene when there is glaring violation of law, arbitrariness and unfairness.

The court should also be very cautious to take note of the genuineness of a complaint before starting any public interest litigation. It must come from the right source. It must be concern people whose rights have been affected and who are unable to approach the court directly because of poverty, lack of means and soon. Otherwise, petitions seeking intervention of the court in public policy matters or in public administration matters is seen as a brainchild of a “busybody”.

In this case, we are not at all convinced about genuineness of the petitioner or the genuineness of his cause.

In those circumstances, we are not inclined to entertain this writ application. It is dismissed. No order as to costs.

[I.P. Mukerji, J]

[Aniruddha Roy, J]