

23.09.2021
Sl. No.13
srm

W.P.A. No. 11884 of 2021
Saktipur Block Contractor's Welfare Association & Anr.
Vs.
State of West Bengal & Ors.

Mr. Rwitendra Banerjee,
Mr. Shibasis Chatterjee,
Mr. Devdutta Pathak

...for the Petitioners.

Mr. Lalit Mohan Mahata,
Mr. Prasant Behari Mahata

...for the State-Respondents.

Mr. Dipankar Pal,
Mrs. Kakali Naskar

..for the Respondent Nos.6 & 7.

Affidavits of service are taken on record.

The petitioner No.1 is an association and registered under the West Bengal Societies Registration Act, 1961 and the petitioner No.2 is the Secretary of the petitioner No.1. It is the contention of the petitioners that the petitioners look after the welfare of several contractors who operate at Saktipur Block. The petitioners have filed this writ petition to espouse the cause of the members for the infringement of the right of participation of its members in the impugned notices inviting tenders bearing NIT No.03/Kashipur G.P./2021-2022, NIT No.04/Kashipur G.P./2021-2022 & NIT No.05/Kashipur G.P./2021-2022.

The first contention of the petitioners is that e-tender was not called. The next contention of the petitioners is that a single work order was split up into three notices inviting

tenders in order to favour some persons. Finally, it is contended that the entire tender process was done in a hush manner, so that only the favoured persons of the authorities under the Saktipur Block could participate in the tender.

Mr. Mahata, learned Senior Government Advocate appearing on behalf of the State-respondents, and Mr. Dipankar Pal, learned Advocate appearing on behalf of the Pradhan of Kashipur Gram Panchayat, District-Murshidabad, submit that the writ petition is not maintainable in its present form. That the society and its secretary did not participate or seek to participate in the tender process. That there is no pleading that the society was deprived from participating in the tender processes because the e-tender was not called. It is further submitted by them that such an application espousing the cause of the members of the association with regard to lack of transparency in the system, cannot be filed seeking judicial review of a tender process when the legal or fundamental right of the members have not been infringed in any way. At best a Public Interest Litigation could have been filed on the basis of the allegations made in the writ petition.

First, on a query of the Court, it is informed that all the tender notices have been executed and the works are complete. None of the members of the petitioner No.1/association sought to participate in the tender. Records have been produced

before this Court which would show that the State Government by notifications has authorised separate tenders for separate works and that e-tender will not be necessary when the amount involved is below rupees 5 lakh. Mr. Mahata submits that the notices inviting tenders were published in the local newspaper.

However, this Court is of the opinion that the writ petition is not maintainable at the instance of the association, espousing the cause of the members of the association who have not challenged the tender process. The petitioners are unable to substantiate before this Court how individual rights of the members have been infringed. There are vague and omnibus pleadings which do not satisfy the principles laid down by judicial decisions calling for judicial review in matters relating to grant of tender.

This writ petition is dismissed without going into the merits.

Had it been a case that individual members were affected and they had come before the Court with specific instances of mala fide, favouritism, violation of the terms and conditions of tender etc., in that case, the Court could have ventured into a decision on merits but in this case, such decision is not required as the association has not been able to show before this Court how each of the members or any of its

members have suffered due to infringement or violation of their rights to participate in the tender.

The writ petition is dismissed.

There will be no order as to costs.

All parties are to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)