

S/L 21
04.08.2021
Court. No. 19
GB

W.P.A. 11927 of 2021

Jana Construction & Anr.
VS
The State of West Bengal & Ors.
(Through Video Conference)

*Mr. Atarup Banerjee,
Mr. Amal Krishna Samanta,
Mr. Subhas Jana.*

...for the Petitioners.

*Mr. Raja Saha,
Mr. Anirban Ray,
Sk. Md. Masud.*

...for the State.

The petitioners are aggrieved by the letter of termination of the work styled as “Up-gradation of road from BARCHARA TO SABANG (Road code : To3) under Sabang Block, Length-4.024 Km within Sabang Panchayat Samity in the district of Paschim Medinipur vide Package No.WB-20-1211 under regular PMGSY-II, Batch-I (2018-19)”.

The said letter was issued on June 17, 2021. The petitioners were informed that as the work was lagging behind and the work was stopped for 28 days without any valid reason, the work order should be terminated and the petitioners should leave the site. The petitioners submit that the work order was issued sometime in June 2020 when the pandemic situation was at its peak and the country was

facing a nation wide lockdown. The completion period of the work was nine months, from June 13, 2020 excluding the rainy season.

After resumption of the work, second wave of the pandemic hit the country and the work had to be stopped.

Mr. Banerjee, learned advocate appearing on behalf of the petitioners submits that very little portion of the work could not be completed because of the intervening rains, the pandemic situation and as his labourers had suffered from COVID-19. He prays that the authorities should view the situation with reasonableness and also take into consideration that at the request of the authority, the repairing of the road work was also done by the petitioners.

Mr. Saha, learned advocate appearing on behalf of the State respondents submits that once the termination has been done, nothing remains to be decided by way of an interim protection to the petitioners.

I have considered the documents placed before this Court. It is true that the work order was issued on June 12, 2020 for a period of nine months with a condition that the same would be completed within nine months from June 13, 2020, excluding the rainy season. It is also true that some extra work was assigned to the petitioners for repairing the road after the cyclone Amphan hit the locality. The petitioners are eager to complete the work. The petitioners submit that eighty per cent of the work has been completed.

The Court has taken note of the circumstances under which the contractor had to function. Not only the pandemic but also the rainy season posed to be a hindrance and the progress of the work was slow. The Court is of the opinion that the Executive Engineer, West Bengal State Rural Development Agency should reconsider the decision of termination of the work and re-think whether the petitioners, under the special facts and circumstances noted by the Court be allowed to complete the remaining portion of the work. The Executive Engineer shall call the petitioners for a hearing and pass a reasoned order. The Executive Engineer may put any terms and conditions on the petitioners as he may think fit and proper and the petitioners shall comply with the same. The Executive Engineer must act reasonably and rationally while deciding the issue. Small time businesses must be supported during this hour of crisis. The court finds it unfair that a short extension was not given to the petitioners during this difficult time. It is also directed that in the intervening period, till the decision is taken, no tender shall be called for the self-same work.

The petitioners are directed to serve a copy of this writ petition along with a server copy of this order upon the Executive Engineer, respondent no.6 and the decision shall be taken and communicated within three weeks from receipt of the server copy of this order.

The writ petition is disposed of.

There will be no order as to costs.

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

(Shampa Sarkar, J.)