

23.9.2021
Court No. 19
Item no.20
sn

WPA No.12627 of 2021

MOTILAL MAHATO
VS.
THE STATE OF WEST BENGAL & ORS.
(via video conference)

Mr. Dipankar Pal
Ms. Kakali Naskar ...for the Petitioner

Mr. Raja Saha
Mr. Biswabrata Basu Mullick ..for the State

Mr. Alok Kumar Ghosh
Ms. Manisha Nath
Ms. Poushali Banerjee ..for the KMC

The petitioner claims to have supplied alum-cake pursuant to an order placed by the Kolkata Municipal Corporation. Accordingly, after the delivery of alum-cake as per the order, the petitioner raised bills. It is contended that some of the bills were released and others were not.

Records reveal that the bills pertaining to some challans were rejected. Thereafter, the petitioner renewed his prayer for payment of the said bills against the rejected challans by filing a mercy appeal before the Commissioner.

Mr. Ghosh, learned advocate for the Kolkata Municipal Corporation submits that the writ petition is barred by limitation. That the petitioner's money claim was rejected in 2014. The petitioner did not come within the period of three years challenging the

said rejection and claiming the amount. The writ petition has been filed after seven years claiming some amount which was not allowed by the authorities by an order of rejection. Thus this writ petition cannot be entertained especially when there is no challenge to the order of rejection and a money suit would be a bar.

Having considered the rival contentions of the parties, this writ petition is disposed of without any orders in favour of the release of payment.

The competent authority of the Kolkata Municipal Corporation is directed to intimate the petitioner within eight weeks from the date of communication of this order as to why the mercy appeal of the petitioner claiming payment of amount which had been rejected way back in 2014 cannot be allowed. There is no doubt that the claim is time barred and a civil suit is not maintainable for recovery of money.

This order shall not be construed as an observation on the right of the petitioner to maintain the writ petition or to claim the amount. The order is only a direction upon the authorities to intimate the petitioner about the fate of the 'mercy appeal' filed by the petitioner.

This writ petition is disposed of.

There will be, however, no order as to costs.

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

(Shampa Sarkar, J.)