

S/L 18
26.11.2021
Court. No. 19
GB

W.P.A. 16117 of 2021

Surajit Basu
VS
The Chairperson Board of Administrator,
Maheshtala Municipality & Ors.

Mr. Suryaneel Das.

...for the Petitioner.

*Mr. R.N. Chakraborty,
Mr. Mahaboob Ahmed.*

...for the Municipality.

Mr. Anindya Chakraborty.

...for the Respondents.

Today, the learned advocate on record for the petitioner appears before the Court and submits that the writ petition had been served upon the Municipal Engineering Directorate through Executive Engineer, but it had wrongly gone down in the order dated October 1, 2021 that such copy was not served. Today, further service has been shown to the Court. The Court is satisfied that the writ petition was served upon the Executive Engineer, Municipal Engineering Directorate, 24 Parganas (South). Subsequent notice was also given.

The challenge in the writ petition is with regard to the notice inviting e-tender issued by the Maheshtala Municipality being NIT No. MAD/MM/NIT-20/20-21/2nd Call. According to the petitioner, the ground for rejection was solely that the Electrical Supervisory Licence of an employee

was not submitted by the petitioner along with the documents for the technical bid round. Reference is made to Page-128 of the writ petition in order to substantiate that the only reason for rejection of the technical bid of the petitioner was due to non-submission of the Electrical Supervisory Licence. Reference is further made to Page-122, from which it appears that the Electrical Supervisory Licence had been issued to the employee of the petitioner. It is alleged that the said licence was submitted.

The petitioner further refer to Page-130 to the writ petition to establish the point that the authorities were always at liberty to call for the records and the missing documents as per their own circular.

Mr. R.N. Chakraborty, learned advocate appearing on behalf of the Municipality submits that the work order has been issued to the added respondent and the work is in progress.

Reliance is also placed on a decision of the Hon'ble Apex Court in the matter of Glodyne Technoserve Limited versus State of Madhya Pradesh and Others, reported in (2011) 5 Supreme Court Cases 103, to substantiate his stand that subsequent filing of documents which were necessary to be submitted along with the application, may not be accepted by the authorities and the authorities were empowered to cancel the technical bid on the ground of non-compliance.

Mr. Anindya Chakraborty, learned advocate appearing on behalf of the successful bidder, submits that his clients

had already started the work and there has been substantial progress.

Considered the rival contentions of the parties. As the petitioner is not in a position to establish before this Court with documentary evidence that there had been any mala fide on the part of the authorities in dealing with the matter and in rejecting the bid without any reason and also because there is nothing on record to show that despite submission of the licence, the technical bid had been arbitrarily rejected, the writ petition cannot be entertained at the stage when the work has been substantially completed.

The contention of the petitioner that despite depositing the licence, the authorities out of favouritism intentionally rejected the petitioner's bid by making an erroneous note, has to be gone into by the authorities themselves and considered and disposed of in accordance with law.

The petitioner has made a representation before the Chairperson, Maheshtala Municipality, but according to Mr. Chakraborty the scanning of the documents and the decision with regard to the disqualification of the petitioner at the technical bid round, was done by the Municipal Engineering Department. Under such circumstances, the petitioner is granted liberty to approach the Superintendent Engineer, East Circle, Municipal Engineering Directorate to ventilate his grievances against the Executive Engineer of the said department. If such approach is made, the Superintendent

Engineer shall call for the records from the concerned Executive Engineer or the municipality and verify the correctness of the statements made by the petitioner. A hearing shall be given to the petitioner, the Municipality as also the Executive Engineer and a reasoned order shall be passed and communicated to all concerned. During such hearing the writ petition shall be produced before the authority so that, the authority is aware of all the contentions raised by the petitioner.

If it is found that the petitioner's contentions are correct, the petitioner shall be at liberty to claim damages against the wrong doer by initiating appropriate proceedings. As third party rights have been created and the work is for public interest, the specific bar under the Specific Relief Act prevents the Court from passing any order in respect of the work, which has substantially progressed.

Accordingly the writ petition is disposed of.

However, 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.)