04.02.2021
SL No.128
Court No.24
(P.M.)

WPA 10129 of 2020

Sayed Neajuddin
Vs.
The State of West Bengal & Ors.

Mr. Mir Anowar
... for the petitioner

Mr. Partha Sarathi Bhattacharya, Sr. Adv
Mr. Sandip Ghosh,
Mr. Partha Sarkar
... for the respondent No. 4

Pursuant to a tender floated by the Executive Officer, Galsi – I Panchayet Samity, for collection of sand toll tax at Shilla Ghat the petitioner being the highest bidder was given permission for collection of the said sand toll tax. The petitioner invested a sum of Rs. 1,01,50,000/- (Rupees one crore one lakh fifty thousand) only. The period for which the petitioner was supposed to collect the tax was from 16th October, 2019 to 15th October, 2020. The petitioner could not perform his business in view of the Lockdown imposed by the Government.

The petitioner applied before the Executive Officer of the Panchayet Samity praying for excluding the Lockdown period from the stipulated period. The prayer of the petitioner was considered and the petitioner was intimated by a communication dated 14th July, 2020 that the Lockdown period will be excluded from the stipulated time period. The time period of the petitioner was thereafter extended till 22nd December, 2020.

According to the petitioner, though the time was extended till 22nd December, 2020 but in the unlock period there has been no work of sand extraction and accordingly he could not collect the sand toll tax. He has invested a huge sum of money but in view of the Lockdown imposed he could not recover the amount that he invested. It has been submitted that the petitioner has suffered huge loss due to lack of business during the Lockdown as well as the Unlock period.

The petitioner filed a representation before the Executive Officer as well as Sabhapati, Panchayet Samity by letter dated 17th November, 2020. The petitioner alleges that his representation has not been considered by the authority till date.

The learned advocate representing the Panchayet Samity submits, upon instruction, that the prayer of the petitioner for exclusion of the period during the Lockdown has duly been considered and extension has been granted in his favour till 22nd December, 2020. Thereafter a fresh E-auction has been held and permission has been granted in favour of one Biswajit Ghosh for collection of toll tax for the period 29th January, 2021 to 28th January, 2022. A copy of the permission granted to the said Biswajit Ghosh dated 29th January, 2021 issued by the Executive Officer of Galsi – I Panchayet Samity has been handed over in Court.

On perusal of the said permission it appears that the said Biswajit Ghosh submitted a bid value of Rs.

50,50,000/- (rupees fifty lakh fifty thousand) only in respect of the said item and as the said Biswajit Ghosh happened to be the highest bidder his bid was accepted by the Executive Officer.

It appears that in the year 2019–2020 period the petitioner was selected as the highest bidder. He had deposited a sum of Rs. 1,01,50,000/- only in respect of the self-same bid, which for the year 2021-2022 was given out for the bid value of Rs. 50,50,000/- only.

As the prayer of the petitioner for extension of his time period was pending consideration at the end of the respondent authority, it was the incumbent duty of the respondents to pass necessary order thereon prior to finalizing the present bid at such a low amount. The respondent authority even though received bid at such a low price proceeded to finalize the same.

As it appears that the present bid has already been finalized and permission has been given in favour of the third party (Biswajit Ghosh) it will not be proper for the Court to interfere in this matter, at the stage, more particularly because the petitioner did not participate in the fresh E-tender.

As regards the representation of the petitioner for extension of his time period the respondent No. 3 being the Executive Officer of the Galsi-I Panchayet Samity and the respondent No. 4 being the Sabhapati, Panchayet Samity shall take a decision thereon in response to the representation of the petitioner made on 17th November, 2020 and pass a reasoned order thereon after giving the petitioner a reasonable opportunity of hearing, within a period of six weeks from the date of communication of a copy of this order. The said respondent shall pass a reasoned order and communicate the same to the petitioner immediately thereafter. The said respondent shall keep in mind that the petitioner had invested a huge sum of money and he could not perform his business in view of the Lockdown imposed by the Government.

Permission issued by the Executive Officer, Galsi-I Panchayet Samity dated 29th January, 2021 in view of one Biswajit Ghosh is retained with the records.

Writ Petition WPA 10129 of 2020 stands disposed of.

Urgent photostat certified copy of this order, if applied for, be given to the parties on completion of usual formalities.

(Amrita Sinha, J.)