

20-01-2021
ct no. 13
Sl.41
pk

**WPA 11104 of 2020
(Through Video Conference)**

**Shibpada Mondal
Versus
State of West Bengal and others**

**Sk. Samsul Arefin,
Mr. Himadri Sikhar Chakraborty
...for the petitioner**

**Mr. Susanta Pal,
Mr. Ananda Dulal Sankar
... for the State.**

The petitioner is aggrieved by an order dated 5th November, 2020 passed by the Executive Engineer, Barasat Division, PHE Directorate. The said order was passed pursuant to a direction of a Co-ordinate Bench of this Court dated 05.03.2020 passed in W. P. No. 1633(W) of 2020. Admittedly, the petitioner was engaged by a contractor, namely, Mondal Construction on September 1996 as a pump operator.

The facts are, inter alia that a Piped Water Supply scheme was implemented by the PHE Department in various villages across the State of West Bengal. The operation of the pump for effecting water supply was entrusted to the local gram panchayat which was admittedly allowed to outsource the job of the maintenance of the pump to the private contractor.

The private contractor and/or agencies were entitled to engage persons of their own choice from the open market. The petitioner was never an employee either of the Gram Panchayat or the PHE Department, as has fairly been admitted by the counsel for the petitioner.

Since the petitioner was engaged from the year 1996 by private contractor and agencies, no right can be claimed against the concerned Gram Panchayat or the State.

Any arrear payments and rights, if at all, enforceable and existing in law, may be enforced by the petitioner against the private agencies and the contractor.

This Court notes certain unnecessary observations and writings made by the Executive Engineer, Barasat Division, PHE Directorate in his impugned order dated 05.11.2020.

The said Executive Engineer, Barasat Division shall be more cautious in future before making any statements that are de hors the record.

The Registry shall communicate this order to the Secretary, PHE, Govt. of West Bengal.

With the aforesaid observations, the instant writ petition is disposed of.

(Rajasekhar Mantha, J.)

