

17.02.2022
Item no.7
Court No.6.
AB

**M.A.T. 133 of 2022
With
I A CAN 1 of 2022**

Abu Tahir Saikh

Vs

The State of West Bengal & Others

Mr. Lal Ratan Mondal,
Ms. Maitraye Banerjeefor the Appellant.

Mr. Bibek Jyoti Basu,
Mr. Uttam Kumar Defor the State.

Affidavit of Service filed in Court today be kept
with the records.

By consent of the parties, the appeal and the
application are taken up together for hearing.

The appellant's writ petition being WPA 9278 of
2021 was dismissed by the learned Single Judge by
the impugned order dated January 18, 2022. The
appellant had participated in an e-tender process
notified by the Dahapara Gram Panchayet. The first e-
tender dated October 1, 2021 was cancelled. A second
e-tender was floated. The appellant approached this
Court by filing WPA 4087 of 2021 with the grievance
that in spite of he having participated in the second
tender process, he was receiving no response from the
concerned authorities.

The learned Single Judge hearing the writ petition passed an order on March 9, 2021, dismissing the writ petition after recording that the bids had not been opened and the tender process had been cancelled as per direction of the Artho O Parikalpana Upa Samity in view of scarcity of funds.

The present writ petition was filed by the appellant alleging that he has received a communication from the authorities that the tender process was cancelled because at least two tenderers were not there. The appellant says that this reason is different from the reason stated before the Court in the earlier writ petition, which was scarcity of funds. The appellant prayed before the learned Single Judge that a direction be issued on the authorities to reopen the second tender process and carry it to its logical conclusion.

The learned Single Judge observed that the communication that is being relied upon by the writ petitioner/appellant has no authenticity. Further, such purported communication was available with the appellant when he had moved the earlier writ petition. The learned Judge observed that in view of the pandemic situation leading to fund crisis, all tenders were cancelled by the Panchayets. It was not as if the concerned tender was cancelled to favour any particular person. The learned Judge finally observed

that to pass any order on the writ petition would amount to reviewing the earlier order passed by a Coordinate Bench. Accordingly, the learned Judge dismissed the writ petition.

We are in complete agreement with the learned Judge. The purported communication relied upon by the appellant is not a piece of document, which can be relied upon. It does not say who sent the communication to the appellant. It is a suspect document and cannot be acted upon. In any event, the concerned Panchayet having apprised the Court as to a valid reason for cancellation of the concerned tender i.e., fund crunch, we do not see how the appellant can be aggrieved.

We find no reason to interfere with the order under appeal.

Since we have not called for affidavits, the allegations in the stay petition are deemed not to be admitted by the respondents.

MAT 133 of 2022 along with IA CAN 1 of 2022 is, accordingly, dismissed.

Urgent photostat certified copy of this order, if applied for, be supplied expeditiously after compliance with all the necessary formalities.

(Kausik Chanda, J.)

(Arijit Banerjee, J.)