

08-04-2022
ct no. 13
Sl.78
pk

WPA 2448 of 2022
(Through Video Conference)

Bishwanath Laya
-Versus-
State of West Bengal & Ors.

Mr. Soumik Ganguly,
Mr. Avik Kumar Das,
Mr. Dilip Kumar Sadhu
....for the petitioner

Mr. Samrat Sen,
Ms. Manali Ali
....for the State.

Mr. Debasish Ghosh,
Mr. Nilanjan Adhikary,
Mr. Subhajit Roy
... for the respondent no. 8

Counsel for the State has made
submissions based on instructions.

It is submitted that the writ petitioner was
indeed L-1 (lowest tenderer) after the tender was
open, but upon scrutiny of documents annexed,
it was found that the professional tax certificate
produced did not indicate that he was in default
and all arrears have been paid few days before
submission of the tender.

It is submitted that a person who has
defaulted in making payment of professional
tax, cannot be trusted with having appropriate

financial integrity to execute the subject contract.

Counsel for the private respondent would rely upon a decision of the Supreme Court in the case of **M/S. N. G. Projects Limited Vs. M/s. Vinod Kumar Jain and others** reported in **2022 Live Law (SC) 302** and submits that tender process should not be interfered with despite illegality.

This Court notes that the facts and circumstances under which the said decision was rendered, was quite different from the instant case. There is little to no delay caused to the State herein by the petitioner and delay, if at all, in the facts and circumstances of this case must be attributable to the officials of the respondents.

In any event, it is found that the rejection of the petitioner's bid was utterly illegal and based on extraneous considerations. This Court notes that the reasons cited for rejection of the petitioner's tender is untrue and incorrect.

The stand taken by the State apart from being irrelevant, is also incredible. It is not for the Irrigation Department to venture into earlier defaults by the Petitioner when the Tax authorities have condoned the same.

The Court's mind is not free from doubt that other considerations may have prevailed upon the respondents in rejecting the petitioner's bid. The Secretary, Irrigation Department, Government of West Bengal, shall be free to initiate an appropriate enquiry into the reasons behind the petitioner's bid being wrongfully rejected.

In the facts and circumstances of the case, the award of tender to the private respondent no. 8 shall stand quashed, and set aside.

The writ petition is allowed.

The petitioner is the lowest tenderer, and the respondent shall proceed on the basis that the petitioner's tender bid is valid.

There will be no order as to costs.

(Rajasekhar Mantha, J.)