

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE
(Through Video Conference)

WPA 1961 of 2020

Subhas Chandra Ghosh
Vs.
Union of India & Ors.

Mr. Bikash Kumar Chattopadhyay
Mr. Soumyajit Bhatta
... For the petitioner

Mr. Debapriya Gupta
Mr. Sourav Mandal
... For the respondent nos.1 to 4

The writ petitioner is aggrieved by the fact that the notice dated 31st October, 2019 issued by the Military Engineer Services (in short MES).

It is submitted that the said documents were furnished albeit belatedly to the MES on 21st November, 2019. The petitioner was not allowed to complete the contract awarded to him by the MES.

Counsel for the respondents submits that the petitioner is guilty of suppression of material fact. It is further submitted that the writ petitioner has changed the nature and character of his firm and assets during the pendency of a contract dated 1st July, 2019. This was in violation of terms and conditions of the contract. The contract was to be completed by 7th January, 2020. The contract involved a construction and provision of labour

and essential services. The petitioner failed to complete the aforesaid contract within the time stipulated and/or the extended time. As many as six notices have been issued to the petitioner for the said purpose but in vain.

By reason of failure to complete the contract within the time stipulated by the petitioner, the writ petitioner has been banned for life from participating any tender of the MES.

This Court notes that the MES has reason for and is justified in banning the petitioner from participating any future contracts, but the imposition of such ban in perpetuity on the petitioner is extremely unfair and arbitrary. In that view of the matter, it is ordered that the ban imposed upon the petitioner from participating in contracts of the MES, shall not operate beyond the year 2026.

The aforesaid order is passed as a special measure considering the peculiar facts and circumstances and shall not be cited as a precedence.

With the aforesaid observation, WPA 1961 of 2020 stands disposed of. There will be no order as to costs.

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

(Rajasekhar Mantha, J.)