

18.02.2022
Court. No. 19
Item no. 04
Cp

WPA 2752 of 2022

Riajul Molla & anr.
Vs.
The State of West Bengal & Ors.

Mr. Mohinoor Rahaman
Ms. Maria Rahaman
... for the Petitioners.

Mr. Jahar Lal Dey
Mr. Abdus Salam
... for the State.

Mr. Surajit Basu
Mr. Manoj Kurmi
Ms. Ranu Mondal

.....for the respondent No. 5.

The petitioner no. 1 is the Shanchalak of Shilpa-O-Parikathama Upa-Samiti and the petitioner no. 2 is the Shanchalak of Siksha-O- Jana Sastha Upa-Samiti of Bhebia Gram Panchayat, District – North 24-Parganas. The petitioners are aggrieved by the action of the Pradhan of the said gram panchayat in issuing the notice inviting tender dated February 8, 2022. The challenge to such notice inviting tender are on the following grounds:

- a) That the provisions of Section 32A of the West Bengal Panchayat Act, 1973 has been violated;

- b) That the Pradhan does not have any right to proceed with the implementation of a scheme under the State of West Bengal by issuing the aforementioned notice inviting tender by ignoring the concerned Upa-Samitis;
- c) That the Upa-Samitis were empowered by the State Government to call meetings for drawing up detailed plans for execution of any Government schemes.

Mr. Basu, learned advocate appearing on behalf of the Pradhan, submits that the concerned Shanchalaks of the Upa-Samitis have failed and neglected to call a single meeting over a period of time for execution of the schemes. That the money sanctioned for such schemes has been lying in the office of the gram panchayat, and there is a likelihood that the same would be sent back to the Government by the end of the financial year, if the schemes are not implemented. Thus, finding no other alternative, the Pradhan issued the notice inviting tender.

Mr. Dey, learned senior government advocate appearing on behalf of the State respondents, relies on a Government order dated October 8, 2003, particularly point no. 9 thereof and submits that the meeting can be convened by the Pradhan for a decision on the implementation of the schemes, if the

Shanchalaks fail to call the meeting. He further submits that the District Magistrate had repeatedly instructed all Block Development Officers of the North 24-Parganas to ensure that schemes are implemented within the financial year. He has produced some documents in support of his contentions. Mr. Dey also submits that the Shanchalaks/petitioners and other members of the Upa-Samitis have failed and neglected to place proposals before the Pradhan on whose advice and on the basis of which, the Pradhan would be able to get the works implemented. According to him, the rift between the Shanchalaks and the Pradhan have given rise to a deadlock situation, for which public projects are not being completed on time and the people of the locality are suffering.

The disputed questions of fact as to whether the Shanchalaks intentionally failed to call the meeting or whether the Pradhan was acting in an arbitrary and highhanded manner in order to favour some chosen persons, are not to be decided by the writ court in this proceeding. The court in this proceeding, is not required to go into the internal feud between the members and the Pradhan. Apart from the strained relationship between the members/ Shanchalaks of the Upa-Samitis and the Pradhan which have been made the subject matter of this writ petition, there are

no legal or factual challenges to the notice inviting tender *per se*.

The petitioners are not intending participants. The tender notice has been floated for the participation of the general public and for execution of public projects. The tender documents are yet to be opened. At this stage, the court does not find that there are any reasons to stall the tendering process. The tender process will continue and reached to its logical conclusion as per the law.

However, the allegations against the Pradhan of manufacturing documents, not proceeding in accordance with law, ignoring the suggestions of the Shanchalaks, which have been raised here, can be agitated before the District Magistrate by the Shanchalaks. The District Magistrate shall cause an inquiry and ensure that the gram panchayat functions strictly in accordance with law.

The entire process of opening the bid documents, issuance of the work order and the execution thereof shall be monitored by the concerned Block Development Officer who will keep a strict vigil, in view of the allegations involved.

This court has not expressed any opinion on the merits of the claims of the petitioners and a superior

authority, namely, the District Magistrate, shall deal with such issues.

The writ petition is disposed of without any interference with the tendering process.

However, there will be no order as to costs.

Parties are to act on the learned advocate's communication.

(Shampa Sarkar, J.)