

09.03.2022.
Item No. 15.
Court No.13
ap

W.P.A. No. 3274 of 2022
With
I.A. No. CAN 1 of 2022
(Through Video Conference)

Pradip Kumar Mondal
Versus
The State of West Bengal & Ors.

Mr. Tanmoy Chattopadhyay,
Mr. Gangadhar Das.

..For the petitioner.

Mr. Samrat Sen, Id. AAAG,
Ms. Manali Ali.

...For the State.

Mr. Nilanjan Adhikari,
Ms. Tarunika Paul.

...For the added respondent no.s7 to 9.

In Re: CAN 1 of 2022

Mr. Nilanjan Adhikari, learned Advocate appears
for the three successful tenderers.

By consent of the parties, the application for
addition of parties being CAN 1 of 2022 is treated as
on the day's list. A copy of such application has been
obtained from the Counsel for the petitioner, which is
kept with the record.

After hearing the parties and considering the
materials on record, this Court finds that Mr. Pravat
Halder, Mr. Arindam Chakraborty and Mr. Dipankar
Ghosh must be added as party respondents to the
instant proceeding.

Mr. Adhikari, learned Counsel for the added respondents shall carry out the amendments in the cause title in course of the day.

Hence, CAN 1 of 2022 shall stand allowed and disposed of.

In Re: W.P.A. No. 3274 of 2022

The writ petitioner is aggrieved by a communication dated 10th February, 2022 issued by the Office of the Assistant Director of Fisheries, Brackish Water, South 24 Parganas.

By the impugned order, the petitioner's bid for supply of good quality Live Tiger Shrimp seeds in different blocks of South 24 Parganas was disqualified for inappropriate CAA Certificate.

It is an admitted position that in terms of Coastal Aquaculture Authority Act, 2005 strict rules have been laid down to ensure that only shrimp being bred in hygienic and healthy conditions are permitted to be distributed for consumption of foods in the country. In terms of the said Act, hatchery owners and seeds producers are required to obtain registration certificate from CAA after complying with the stringent conditions stipulated thereat.

The intending bidders like the petitioner were required to be either a producer or hatchery owner having such CAA Registration Certificate or an

authorized agent for supplier of such CAA registered hatchery.

The writ petitioner produced a certificate issued by one M/s. Ananda Aqua Applications on their letter head, enclosing therewith the Registration Certificate issued by the Director (Technical), Coastal Aquaculture Authority, to one M/s. Ananda Foods.

The same is admittedly a discrepancy in the tender submitted by the writ petitioner. The records indicate that both M/s. Ananda Aqua Applications and M/s. Ananda Foods are independently and separately registered as hatcheries and/or shrimp seed producers.

Counsel for the petitioner would argue that the error on the part of the writ petitioner is minor in nature and he should be allowed to rectify the same. It is also submitted that while the submission of a CAA Certificate may be an essential term of the contract, the error committed is rather inadvertent. It is also submitted that his client cannot, therefore, be thrown out of the race for such minor omission.

This Court notices that both the tender itself, and job for which notice inviting tender was published, is highly competitive and a large number of players are vying for the jobs in question. The petitioner cannot in these circumstances be allowed to rectify the mistake. This would amount to granting special concession and

status to the writ petitioner thereby compromise the competitive edge of the other bidders.

Counsel for the petitioner has relied upon a decision of the Division Bench of this Court in the case of ***Ainul Hoque – Vs. – Mandeepa Enterprises & others*** reported in ***2021 SCC OnLine Cal 3003***.

This Court is of the view that the said decision does not have any application to the facts of the instant case.

In any event as submitted by Mr. Samrat Sen, learned Senior Advocate for the State, work orders have already been issued to the other three successful tenderers i.e. respondent nos.7 to 9.

In the facts and circumstances of the case, this Court is not inclined to accede to the petitioner's request or allow him to rectify his mistake.

In view of the aforesaid discussions, the instant writ petition must fail and is hereby dismissed.

There will be no order as to costs.

All parties are directed to act on a server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)