

23.11.2022
Court No. 19
Item no.398
CP

W.P.A. No. 5159 of 2022

Rupchand Mahato

Vs.

The State of West Bengal & Ors.

Mr. Soumik Ganguly
Mr. Lalratain Mondal
Mr. Dilip Kumar Sadhu
Ms. Ankita Pradhan

.....for the petitioner.

Mr. Ranjit Rajak

....for the State.

Mr. Rudranil De
Mr. M. Mahata

...for the respondent nos. 9 to 13, 15, 16, 18.

The petitioner prays for cancellation of certain tender processes floated by the Ghaghra Gram Panchayat. The allegations are as follows:

- a) The date for the pre-bid discussion was fixed on February 24, 2022, i.e. 3 days after the sale of the tender forms had been started.
- b) The petitioner was not supplied the tender forms which were open for sale on and from February 21, 2022. Such refusal was in order to favour the successful bidders.
- c) The successful bidders in all the tender processes were arbitrarily awarded the

works as they were favoured persons of the Pradhan.

The first contention of the petitioner does not impress the court. The tendering authority had kept eight days, i.e., from February 21, 2022 to February 28, 2022 for sale of tender forms. This was sufficient time. The pre-bid discussion was fixed on February 24, 2022. Fixing the date on February 24, 2022, in no way could be held to be prejudicial to the interest of the participants. The participants who had taken the forms could fill in the same and submit the bid documents upon clarification of all their doubts in the pre-bid conference/meeting. The participants who were not sure whether to participate, had four days time to consider the issue of participation after clarifying their doubts at the pre-bid discussion. Further time upto March 2, 2022 had been provided for submitting the bids. Thus, the court does not find any illegality in this regard.

With regard to the other contention of the petitioner that the successful bidders were allotted the works arbitrarily as they were the favoured persons of the Pradhan, are not backed by any supporting facts and documents. A mere pleading or a bald allegation will not suffice. In order to substantiate the allegations of favouratism, mala fide

and arbitrariness, the petitioner was required to furnish better particulars.

Moreover, the learned advocate for the successful bidders specifically contend that the works were completed. When the writ petition was moved for the first time on April 27, 2022, no interim orders were passed.

Thus, once the work had been completed and the completion certificate has been issued by the authority, no further order can be passed with regard to the works done.

However, the issue of non-grant of tender forms to the petitioner has to be taken into account by the District Magistrate in order to ensure free and fair practice in the panchayat office. All eligible persons must be allowed to compete in the process. Favouritism, nepotism and arbitrariness must be discouraged.

The writ petition is disposed of with a direction upon the District Magistrate, Purulia to treat the writ petition as a representation and dispose of the same in accordance with law, upon granting an opportunity of hearing to a learned advocate for the petitioner, a representative of the concerned gram panchayat and to the Block Development Officer.

If the allegation of the petitioner is found to be correct, remedial measures shall be taken by the

concerned authority so that the same illegality is not committed in future.

A reasoned order shall be passed and communicated to all.

If the authority comes to a specific finding that the petitioner had been illegally deprived from participating in the tender process by non-grant of the form, the responsibility shall be fixed. The right of the petitioner to sue the wrong doer in his individual capacity for damages, by filing a civil suit, is kept open.

Accordingly, the writ petition is disposed of.

However, there will be no order as to costs.

All the parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)