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13.07.
2022
Ct. No.24

WPA 12016 of 2022

Jakir Hasan
Vs.
State of West Bengal & Ors.

Mr. Partha Pratim Roy
Mr. Dyutiman Banerjee
.....For the Petitioner

Ms. Amrita Panja Moulick
.....For the State

Affidavit of service filed in Court today is taken on record.

None appears either on behalf of the Panchayat Samity or on behalf of the private respondent despite service.

The matter relates to a public auction conducted by the Murshidabad Jiaganj Panchayat Samity in respect of Dangapara Paharpur Ferry Ghat.

The minimum bid amount as was indicated in the auction notice dated 27th May, 2022 is Rs. 4,40,000/-. The date of the auction was fixed on 14th June, 2022.

The petitioner being interested to participate in the auction process submitted the earnest/security deposit. His allegation is that at the time of open bidding the first candidate quoted the price a little more than the minimum bid price.

As per the notice inviting tender the minimum difference between two bids should be Rs.4,000/-. The second participant quoted the bid amount slightly more than the difference amount and the third participant quoted a sum of Rs.15,00,000/- and odd.

After the bid amount was raised to Rs.15 lakh and above, the Block Development Officer did not permit the other participants to put in their bids with any amount less than the amount which has already been quoted.

The participant who quoted the highest amount thereafter failed to deposit the money and accordingly the tender was allotted in favour of the next highest tenderer.

The petitioner immediately on the self-same day filed a representation before the Savapati of the Panchayat Samity wherein it has been clearly mentioned that the petitioner is agreeable to pay a sum of rupees three lakh over and above the amount which has been quoted by the second highest tenderer.

The petitioner thereafter submitted a notice demanding justice before the Block Development Officer on 15th June, 2022 mentioning in details his grievance and alleges that the same has not been considered till date.

The petitioner submits that the Block Development Officer intentionally and deliberately did not permit the petitioner to submit his bid with the sole intention to eliminate him from the tender process. The same has been done to favour the candidate of his choice. The illegal act of the BDO amounts to rigging the open tender process.

It has been submitted that the Block Development Officer was fully aware that the bid amount of Rs.15 lakh and above is an exorbitant amount and the tenderer would not deposit the same. On account of non-payment of the highest bid amount, the tender will automatically be allotted in favour of the second highest tenderer who has quoted a much lesser amount.

The petitioner is agreeable and ready to pay rupees three lakh more than the amount that has been quoted by the second highest tenderer.

Prayer has been made for setting aside the entire auction process and for re-auction of the ferry ghat.

Learned advocate representing the State respondents denies the submission made on behalf of the petitioner.

It has been submitted that had the petitioner quoted any amount the same would have been reflected in the tender book which was maintained by

the Block Development Officer. It has been submitted that after the bid amount stood raised to rupees fifteen lakh and odd, no further participant submitted their bids and accordingly, the Block Development Officer did not have any other option but to declare the highest bidder as the successful tenderer. Afterwards, as the highest bidder failed to deposit the bid amount, accordingly, the bid has been finalized in favour of the second highest tenderer.

After hearing the submissions made on behalf of both the parties it appears that the petitioner has already objected to the bid being finalized in favour of the second highest tenderer and the petitioner has disclosed his intention to pay amount far more than that has been quoted by the second highest tenderer.

The auction process is called for to generate revenue for the Government. The Government will always try to take steps to maximize the revenue through the bidding process. The auction ought not to be conducted in such a manner that the participants who are interested to submit their bids be prevented from putting in their bids only because one of the participants has quoted an exorbitant amount. It is not uncommon that in an auction process the person who quotes the highest amount fails to deposit the quoted amount. Then in that case the person who quotes the second highest amount gets an

opportunity to be declared successful.

Had the Block Development Officer permitted the petitioner to quote the amount that he is agreeable to pay, then possibly the petitioner would have been the second highest bidder and the tender could have been settled in his favour. There may have been other participants willing to deposit higher amounts.

The objection filed by the petitioner before the Savapati on the self-same day that is on 14th June, 2022 has not been considered till date. The Block Development Officer has also not considered the representation filed on behalf of the petitioner on 16th June, 2022.

In view of the above, the instant writ petition is disposed of by directing the Executive Officer, Murshidabad Jiaganj Panchayat Samity to consider the representation filed by the petitioner on 14th June, 2022 and 16th June, 2022 keeping in mind that any participant who is agreeable to pay an amount more than the tender price quoted by the second highest bidder at the time of open bidding on 14th June, 2022, may be considered as the successful tenderer.

The decision shall be taken by the Executive Officer after giving reasonable opportunity of hearing to all the necessary parties at the earliest, but positively within a period of ten days from the date of

communication of this order. The Executive Officer shall pass a reasoned order and communicate the same to all the parties immediately thereafter.

The writ petition stands disposed of.

Urgent photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Amrita Sinha, J.)