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13.07.
2022
Ct. No.24

WPA 12116 of 2022

Manilal Khan
Vs.
State of West Bengal & Ors.

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

Mr. Nilotpall Chatterjee
Mr. Amritalal Mukherjee
.....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 Murshidabad Jiaganj Panchayat Samity in respect of Hulaspur Ferry Ghat. The minimum bid amount as was indicated in the notice dated 27th May, 2022 is Rs. 4,74,100/-. The date of the auction was fixed on 14th June, 2022. The petitioner being interested to participate in the auction process submitted the earnest money deposit. His allegation is that at the time of open bidding the first candidate quoted the price of 4,75,000/- that is just above the minimum bid price. As per the notice inviting tender, the next participant quoted Rs.5,000/- more than the

minimum bid amount and the third participant quoted a sum of Rs.15,00,000/- and odd. After the bid amount was raised to Rs.15 lakhs and above, the Block Development Officer did not permit the other participants to put in their bid less than the amount which has already been quoted.

The participant who quoted the less amount thereafter failed to deposit the money and accordingly the tender was given 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 Rs.3 lakhs 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 of June, 2022 mentioning in details his grievance. The petitioner submits that the Block Development Officer has intentionally and deliberately with the participant to receive the tender amount. The same amounts to leading in the open tender process.

It has been submitted that the Block Development Officer was fully aware that the bid amount of Rs.15 lakhs and above is an exorbitant amount and could not have been paid by the tenderer. 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 been quoted a very lesser amount. The petitioner is still interested to pay Rs.3 lakhs over and above the amount that has been quoted by the second highest tenderer.

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 mentioned by the Block Development Officer. It has been submitted that after the bid amount raised to Rs.15 lakhs 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 given 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 allowed in favour of the second highest tenderer as the petitioner is agreeable to pay amount far more than that has been agreed to be paid by the second highest tenderer.

The tender process is called for to generate

revenue for the Government. The Government will always try to take steps to maximize the revenue from the tender. The tender ought not to have been conducted in such a manner that the participants who are unable to submit their bids be prevented from putting in their bids only because one of the participants has quoted an exorbitant amount. Had the Block Development Officer permitted the petitioner to quote his amount that he is agreeable to pay, then possibly the petitioner would have been the second highest bidder and the tender could have been allotted in favour of the petitioner.

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. Any reason known, 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 directing the Executive Officer, Murshidabad Jiaganj Panchayat Samity Murshidabad Jiaganj Panchayat Samity to consider the representation filed by the petitioner of the 14th June, 2022 and 15th June, 2022 with the idea 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 taken as the successful tender.

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.)