

Sl. No.12
15.07.2022

Court No.24
B.M.

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 13146 of 2022

Alok Kumar Saha
Versus
The State of West Bengal & Ors.

Mr. Robiul Islam
Mr. S. A. Munshi
... for the petitioner
Mr. Debapriya Chatterjee
... for the State
Mr. Usof Ali Dewan
Mr. Amanul Islam
... for the respondent no.6

The petitioner has challenged the Notice Inviting e-Tender No.05/2021-2022 dated 10th January, 2022 published by the Prodhan of Dhoradaha-II Gram Panchayat.

The work is for the purpose of construction of Sajaldhara and the tender amount is Rs.12,12,756/- only. The period of completion of the work is 45 days. The date of publishing the tender was 11th January, 2022. Last date of dropping the tender was on or before 20th January, 2022. The date of opening the tender (technical bid) was 21st January, 2022. The date of opening the financial bid was to be notified later on.

Learned advocate representing the petitioner submits that the financial bid was opened in May, 2022.

The primary contention of the petitioner is that for the amount which has been put to tender, the Prodhan is not the competent authority to issue the notice inviting e-tender.

In support of the aforesaid statement, the petitioner relies upon an order dated 4th July, 2022 passed by this Court in WPA 8615 of 2022 with CAN 1 of 2022, in the matter of Sri Krishna Pada Mahato & Anr. vs. State of West Bengal & Ors.

The petitioner prays for setting aside the entire tender process.

Learned advocate representing the Prodhan submits that the financial bid was open on 18th February, 2022 and the work order has been issued in favour of the successful tenderer on 16th March, 2022. It has been submitted that the work is complete by now.

Learned advocate representing the Block Development Officer submits, upon instruction that, no complaint was received from any of the parties against the aforesaid Notice Inviting e-Tender. In the absence of a formal complaint, it was not possible for the Block Development Officer to interfere in the matter and take a decision thereon.

I have perused the judgment passed in the matter of Sri Krishna Pada Mahato (supra). In the said order the Court took into consideration the notification No.2254-F(Y) dated 24th April, 2014 issued by the Finance

Department, Audit Branch, Government of West Bengal. The Court took into consideration Rule 17(5) of the West Bengal Panchayat (Accounts, Audit and Budget) Rules, 2007. Rules 17(5)(b) mentions that

“ If the estimated value of the work exceeds rupees five lakh in case of general works or for sanitary and plumbing works or rupees two lakh in case of electrical works, sealed tenders shall be invited openly on behalf of the Artha O Parikalpana Upa Samity by publishing a notice giving at least fifteen days time and copies of notice inviting competitive bids in sealed cover shall be published in at least one local newspaper widely circulated in the area concerned well in advance; in addition, the tender notices shall be displayed prominently in the notice board of the Gram Panchayat and other places as mentioned in clause (a), contractors enlisted in Class-I category of the Gram Panchayat shall also be eligible to participate in such open bidding.”

In the present case, tender amount is more than Rs.12 lac and accordingly, the Prodhan was not the appropriate authority to float the e-tender.

As it has been submitted by the learned advocate representing the Prodhan that work order has already been issued and work is complete by now, accordingly, the Court thinks it fit to direct the Block Development Officer to enquire into the matter and if it appears that the work order is yet to be issued or if the work has not yet commenced despite issuance of the work order, then

necessary steps shall be taken by the Block Development Officer to immediately stop the entire process.

In the event, the work has been started or completed, then the Block Development Officer will not interfere in the said process.

The order passed herein be circulated by the Block Development Officer to all the Panchayat authorities within its Block to make them aware of the procedure that is to be followed at the time of inviting tender by the Panchayat.

The Block Development Officer shall intimate the petitioner the action taken in the matter within a period of two weeks from the date of communication of this order.

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.)