

22.9.2022
Sl.No.34/sn

WPA 14874 of 2022

Mostafa Sk.

Vs.

The State of West Bengal & Ors.

Mr. Partha Pratim Roy

Mr. Sarbananda Sanyal

..for the petitioner

Mr. J.L. De

Mr. Shamim Ul Bari ..for the State

Mr. Rwitendra Banerjee

Mr. Shibasis Chatterjee .for the respdt.8

The petitioner is the unsuccessful bidder in an auction of a Ferry Ghat. The respondent no.8 was the highest bidder. He quoted an amount of Rs. 1,77,50,000/-. The lease was executed in favour of the respondent no.8.

It is submitted by the petitioner that by violating Clause-2 of the notification dated April 22, 2022, the Raghunathgunj-II Panchayat Samity permitted the petitioner to operate the ferry ghat, illegally. First, 50% of the quoted amount should have been paid within 3 days and the rest of the amount within 6 months, as contemplated in Clause -2 of the notification.

The petitioner also submits that the respondent no.8 quoted an exorbitant amount so that other participants would not be able to compete. Thereafter, upon getting the lease executed, the said respondent did not comply with Clause-2. He prayed for extension, without

depositing the amount and this was an indirect way of getting the lease to operate the ferry ghat without paying the abnormally high amount and by depriving other competent bidders who could have deposited a reasonable amount for grant of lease.

The petitioner approached the Block Development Officer with certain queries under the Right to Information Act, 2005. The petitioner was informed that the money as per Clause 2 of the notification, had not been deposited.

The petitioner approached the Block Development Officer for cancellation of the aforesaid auction and the lease.

Learned advocate for the respondent no.8 submits that a total amount of approximately Rs.1,68,000/-, was deposited by the respondent no.8. On account of ill health, extensions were prayed for and the authorities did not respond to such prayer. Thus the amount as per Clause 2, had not been made.

Mr. De, learned Additional Government Pleader submits that initially, the petitioner deposited approximately Rs.66,200/-. The authorities have not informed Mr. De whether further sum had been deposited or not. However, it is the categorical contention of the State respondents that extension was given on account of

ill health, but the petitioner did not comply with the direction of the authority. Even after two reminders, the amounts were not paid. Clause-2 of the notification was violated.

Under such circumstances, it appears to the Court that there has been a violation of the notification by the respondent no.8. Auction was held for grant of lease of government property/public property for augmentation of revenue. The highest bidder was granted work only on such principle. In this case, the respondent no.8 quoted a sum of Rs.1,77,50,000/-, but did not deposit the first instalment.

Thus, the question of augmentation of revenue did not arise in this case. The entire purpose for holding the auction has been defeated. The respondent No.8 has caused loss of revenue. Three months have already passed, but such deposit has not yet been made. The respondent No.8 is operating the ferry ghat.

Under such circumstances, the Block Development Officer, Raghunathgunj-II is directed to dispose of the representation of the petitioner dated June 30, 2022 in accordance with law, upon granting an opportunity of hearing to the petitioner, the respondent no.8 and the panchayat samity. While deciding the issue, the consequences of non-

compliance of the notification, specially Clause 2 thereof, shall be decided. A reasoned order shall be passed and if the authority comes to the conclusion that the lease should be cancelled, in that event fresh auction shall be held in accordance with law.

The entire exercise shall be completed within a period of six weeks from the date of communication of this order.

This writ petition is disposed of.

There will be, however, no order as to costs.

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

(Shampa Sarkar, J.)