

28th July, 2022
(D/L No.25)
(SKB)

W.P.A. 16655 of 2022

Shyam Sundar Dutta
-Versus-
State of West Bengal and others

Mr. Swarup Paul,
Mr. Guru Saday Dutta
... for the petitioner.

Mr. Swapan Kumar Dutta,
Mr. Subhabrata Das
... for the State.

The petitioner is aggrieved by an order passed by the Medical Superintendent cum Vice-Principal, R. G. Kar Medical College & Hospital on 16th July, 2022. According to the petitioner, as expressed through learned counsel, the order does not keep up to the directions issued by the court on 4th July, 2022. The court had directed the said respondent to pass a reasoned order upon usual observations. Counsel also points to certain other facts which may be relevant for assessing the sustainability of the impugned order.

Learned counsel appearing for the State seeks to defend the order.

Upon revisiting the directions given by this court on 4th July, 2022, it appears that the Medical Superintendent cum Vice-Principal, R. G. Kar Medical College & Hospital was directed to consider the representation of the petitioner and dispose of the same

by way of a reasoned order within certain time frame. The concerned respondent was directed to hear the petitioner as well as the private respondents and consider the documents which were placed before the court and also consider the basis of selection of the private respondents.

The impugned order reflects the undue enthusiasm on the part of the respondents in selecting two props in the form of a proprietor of one Rupa Printing Works and a partner of one MD Enterprise. This court is unable to find the basis of selecting these two persons as part of the hearing process. Apart from this glaring over-enthusiasm, the impugned order reflects a clear absence of compliance with the directions passed by the court on 4th July, 2022.

The issue before the court was whether the petitioner had been rightly classified as a sub-contractor and excluded from the tender whereas the petitioner claimed to be a contractor. The respondent was directed to consider this point apart from the other directions as stated above.

The impugned order simply records the comments of the private parties and the “independent witnesses” in relation to the writ petition filed before this court. Their opinion as to the writ petition has also been considered by the concerned respondent. The respondent

thereafter proceeded to nullify the contentions of the petitioner. There is absolutely no reason given as to the issues raised by the petitioner before the court. The opinion of the so-called independent witnesses appear to form the basis of the impugned order. The impugned order, hence, is found to be an instance of not only circumventing the directions passed by this court but also travelling beyond such directions.

This court also notes the fact that the concerned respondent had entered into a transaction with one of the successful bidders at an over-inflated rate before the tender was floated by the respondent. This suggestion, though not factually tested, is a serious allegation and needs to be addressed.

The impugned order dated 16th July, 2022 is set aside for the above reasons. The respondent no.4, being the Director of Health Service (W.B.), Department of Health & Family Welfare, Govt. of West Bengal, is directed to pay attention to the directions of the court dated 4th July, 2022 and revisit the issue by passing a fresh order on all the relevant facts and without the help of any persons, independent or otherwise upon giving an opportunity of hearing to the petitioner and all relevant parties. The reasoned order is to be passed within a period of four weeks from date and a copy of the reasoned order shall be made available to the

petitioner within a week from the date on which such order is passed.

W.P.A.16655 of 2022 is disposed of in terms of the above.

(Moushumi Bhattacharya, J.)