

17th August,
2022
(AK)
09

W.P.A 16877 of 2022
IA No: CAN 1 of 2022

Ramela Begum
Vs.
The State of West Bengal and others

Mr. Sarwar Jahan
Mr. Jayanta Samanta
Mr. Anisur Rahman
...for the petitioner.

Mr. Nilotpal Chatterjee
Mr. Prantik Gorai
...for the State.

Mr. Joydip Kar
Mr. Mohan Kumar Sanyal
Mr. Arunesh Pathak
...for the added party.

Re: CAN 1 of 2022

The applicant in CAN 1 of 2022 was the successful bidder in a tender process which has been challenged in the writ petition.

Upon hearing learned counsel for the parties, it is evident that the applicant would be directly and substantially affected by the outcome of the present writ petition.

Accordingly, CAN 1 of 2022 is allowed, thereby adding the applicant as a respondent to the writ petition.

The necessary consequential amendments shall be effected in the cause title of the writ petition by the

learned advocate-on-record for the writ petitioner during the course of the day.

It is made clear that in view of the original application not being available on record, a copy thereof, handed over by the learned Senior Advocate appearing for the applicant, be kept on record and shall be deemed to be the original, on consent of parties.

There will be no order as to costs.

Re: WPA 16877 of 2022

The petitioner challenges the rejection of the petitioner's bid in a tender floated for carrying and storing of Food Stuff and other articles by the respondent authorities.

The petitioner had submitted bid for three of the total twenty seven projects for which the tender was issued, being in respect of Hariharpara, Nowda and Shamsherganj.

The said bid document was rejected at the stage of technical bid on the ground that the petitioner was not willing to store salt (Food Stuff) in the godown.

It is contended by learned counsel for the petitioner that although in respect of the Hariharpara and Shamsherganj projects the agreement uploaded by the petitioner indicated that the petitioner could not store salt and the ground of rejection applies, inasmuch as the Nowda project is concerned, the project was only in

respect of carrying and not storage and, as such, the alleged refusal of the petitioner to store salt in the godown was an irrelevant consideration.

However, the respondent authorities turned down the petitioner's bid, in respect of all the three projects.

It appears from the terms and conditions of the Notice Inviting Tender that a godown was to be provided for by the bidder, which should have a capacity of storing the quantity of approximately 250 metric tons of "any kind" of food stuff or other articles in safe manner.

Clause 14 thereof envisaged the submission of a sketch map of such godown and Clause 15 contemplated that the agent shall have to take necessary care to avoid loss, damage of the stock etc.

In order to fulfill the technical qualifications, a bidder had to qualify in respect of all the projects for which the bid was submitted, since, as rightly submitted by the respondent authorities, the bid contemplated a single document and a single bid for all the intended projects was submitted by each of the bidders.

Hence, there was no scope of segregation in respect of the different projects for which the bid was submitted by the petitioner.

Hence, there was no option before the respondent authorities but to reject the entire bid document on the ground of non-fulfillment of the tender qualifications.

That apart, it is well-settled that the court is cautious in interfering with tender processes, unless there are patent arbitrariness and/or mala fides or illegality involved.

In the present case, no such yardstick is satisfied.

Moreover, the employer has discretion to interpret the terms and conditions of the tender as will suit the employer and the work-in-question.

In view of there being a plausible scope of interpretation of the NIT terms in the way that it has been interpreted by the respondent authorities, no interference by the writ court is justified.

Accordingly, WPA 16877 of 2022 is dismissed on contest without any order as to costs.

Urgent photostat copies of this order, if applied for, be given to the parties upon compliance of all requisite formalities.

(Sabyasachi Bhattacharyya, J.)