

Ct. 05
Item No.30
21.11.2022
(Suvendu)

WPA 19037 of 2022

**M/s. Kanu Binod Giri
Vs.
State of West Bengal & Ors.**

Mr. Bikas Ranjan Bhattachryya
Ms. Santi Das
.....for the petitioner

Mr. Uttam Kumar Bhattacharya
Mr. K. Mishra
.....for the respondent nos. 2-6

The affidavit-in-opposition and the affidavit-in-reply are taken on record.

The petitioner has challenged a letter of Purba Medinipur Zilla Parishad dated 26.07.2022 by which the petitioner's contract for construction of Surface Drain from Balisai to Chandpur in the district of Purba Medinipur was terminated and the Security Deposit was forfeited in terms of Clause 17 of the Tender Conditions. The petitioner was also debarred for two years from participating in future tenders in the district of Purba Medinipur.

The pleadings before the Court including the documents relied on by the petitioner and the Zilla Parishad show that the contract was for a

duration of one month. The petitioner was to complete the work within the stipulated time frame. The petitioner, however, wrote numerous letters on one pretext or the other to the Zilla Parishad for extension of time to complete the work. As on 26.07.2022, when the impugned letter was issued, the petitioner had constructed about 77 meters out of 200 meters tender work. The petitioner has also been paid Rs. 10.93 lakhs for the work done.

The primary ground taken on behalf of the petitioner by learned counsel is that the petitioner was prevented from completing the work in stipulated time by reason of the respondent not giving required maps and drawings to the petitioner. This would be belied from the evidence on record since besides pleadings there is no document to show that the petitioner had actually been prevented from completing the work due to the absence of drawings. The correspondence shows that the petitioner was prevented from doing the work by reason of local agitation and disturbance caused by people in the work area. This is explained by a letter from the Zilla Parishad which states that the agitation was caused due to the inordinate delay on the part of the petitioner in completing the work. Whatever

be the reason for the delay, it is undisputed that a tender term of one month was stretched to seventeen months at the time of issuance of the impugned communication. There is little doubt that a fixed-term tender will lose its efficacy if there is unreasonable delay in completing the work. It is also not disputed that the petitioner was not able to complete the work within the agreed time and took several extensions for completing the work. This Court does not find any support from the pleadings to quash the impugned letter dated 26.07.2022 and all the more so by reason of the fact that the tender is now offered to a third party and hence compelling ground must be made out to injunct a third party from completing the tender work.

However, for the interest of justice and for balancing the hardship of the parties before the Court, WPA 19037 of 2022 is disposed of with a direction on the Zilla Parishad to suspend the petitioner's debarment for two years. The other decisions in the impugned letter are not interfered with.

Urgent photostat certified copy of this order, if applied for, be given to the parties on usual undertakings.

(Moushumi Bhattacharya, J.)

