

24.03.2022
Court No. 19
Item no.20
CP

W.P.A. 20900 of 2021

Alauddin Sekh

Vs.

The State of West Bengal & Ors.

Mr. Anirban Mitra
Md. Wasim Akram
Mr. Akash Ghosh

... for the Petitioner.

Mr. Susanta Pal
Mr. Parikshit Goswami

... for the State.

The petitioner was a successful tenderer in a tender process bearing Tender ID No. 2018_DMN_167872_5 and Tender Reference No. 51/Tehatta-1 Block/2017-2018. The work was for construction of black top road from the house of Bipul Mistri to the house of Hari Mandir at Mobarakpur under Chhitka G.P. under Tehatta-I Block.

The contention of the petitioner is that after completion of almost 80% of the work, the petitioner submitted a part bill. The said bill was not paid. It appears from a reply given by the SPIO and Joint Block Development Officer that the work order had been issued to the petitioner and 80% of the work had been completed.

The payment was denied to the petitioner on the ground that approval had not been taken.

Reference is made to a letter of the present Block Development Officer, Tehatta – I Development Block, dated June 3, 2020, written to the District Welfare Officer, Backward Classes Welfare Krishnanagar, Nadia. From the said letter it appears that the construction of the road was initiated about 2.5 years ago, during the tenure of another Block Development Officer and it was reported to the present Block Development Officer that prior approval of the Government had not been taken by the Tehatta – I Panchayat Samiti (hereinafter referred to as ‘the panchayat samiti’), either before the execution of the said work or before floating of the tender. Under such circumstances, the payment was not made to the petitioner.

It is submitted by Mr. Pal, learned advocate appearing for the State respondents, that without any prior approval from the relevant department of the Government, the tender could not have been floated and the work order could not have been issued. As per the rules, such prior approval of the concerned department of the government was mandatory.

It appears that a proposal had been received for construction of the above road for the interest of the local people by the panchayat samiti. The District Magistrate (Development and Planning Section),

Krishnagar, Nadia was also intimated of the same. However, there is nothing on record to show that approval was granted by the competent authority before the tender process had been initiated and concluded. Even *post facto*, approval was not given.

Under such circumstances, nothing remains to be decided in the writ petition. The Block Development officer cannot pay up the dues, under such circumstances.

The petitioner shall be entitled to raise his grievances before the concerned District Magistrate. If the approach is made in this regard, then the concerned District Magistrate shall consider the grievances of the petitioner in accordance with law upon hearing the petitioner and the Block Development Officer as also other members of the panchayat samiti who were part of the tendering process and allocation of the work to the petitioner. There is no reason why the petitioner should be deprived of his dues when, the SPIO has informed that 80% of the work has been done. The concerned District Magistrate shall enquire into the entire issue and pass necessary orders. The questions of grant of post facto approval shall be considered. The records reveal that 80% of the work was completed. The present BDO has also recorded the same. If 80% of the work has been completed, the District Magistrate

upon enquiry of the same, shall take steps for grant of post facto approval, if permissible under the law and disburse the legitimate dues.

A reasoned order shall be passed and communicated to the petitioner, in case the claim of the petitioner is found to be incorrect or no work order had at all been issued.

The court is of the view that the concerned Block Development Officer who was a part of the entire tendering process and the allocation of the work, may also be heard.

The entire exercise shall be completed within a period of three months from the date of receipt of the complaint of the petitioner. The time period is mandatory.

The writ petition is, thus, disposed of. There shall be no order as to costs.

Parties are to act on the server copy of this order.

(Shampa Sarkar, J.)