

S/L 10
27.09.2022
Court. No. 19
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W.P.A. 21857 of 2022

S.S. Construction
VS
The State of West Bengal & Ors.

Mr. Saptangshu Basu...Sr.Adv.
Mr. Tanweer Jamil Mandal
Ms. Somashree Dey ... for the Petitioner

Mr. Raja Saha
Mr.S.P.Lahiri ..for the State

Mr. Sakya Sen
Mr. S.K. Gupta
Mr. Hasibul Islam .for the respdts.2-4

The petitioner participated in an auction held by the Murshidabad Zilla Parishad for settlement of Gorabazar Ferry Ghat on Bhagirathi river some time in 2019. Temporary settlement was granted to the petitioner as it was the successful bidder. Due to the Covid-19 pandemic, the operation of the ferry ghat was stopped for a considerable period. As the petitioner could not earn at the expected level and suffered losses, an application was filed before the authorities for extension of the temporary settlement.

As the authorities did not grant extension for the entire period when the ferry service was inoperative, the petitioner moved this Court by filing a writ petition, being WPA 318 of 2021.

WPA 318 of 2021 was disposed of by a co-ordinate Bench of this Court on January 28, 2021, directing the Murshidabad Zilla Parishad to take a

decision with regard to the prayers for extension of the permission to operate the ferry ghat for the entire period of 83 days and also for a further period of one year, upon payment of necessary fees. The Murshidabad Zilla Parishad took a decision for extension of the permit for one year and thereafter for two more years.

It is alleged that the petitioner failed to deposit the money as per the temporary permit and the temporary settlement was cancelled. Fresh notice for e-auction was published.

Aggrieved by the aforementioned action of the Murshidabad Zilla Parishad and subsequent issuance of the notice for e-auction, this writ petition has been filed.

Mr. Sen, learned advocate appearing on behalf of the Murshidabad Zilla Parishad submits that the lease of the petitioner was cancelled as the petitioner failed to make payments as per the terms and conditions in the order of settlement.

This Court had directed the learned Advocate for the Murshidabad Zilla Parishad to come back with instructions in this regard. The Additional Executive Officer, Murshidabad Zilla Parishad has filed a report, inter alia, stating that the extension may be granted if the Court passes necessary directions in this regard.

Although the tender notice has been published, the last date for submission of papers is September 29, 2022. No third party rights have been created as yet. The auction notice shall not be given effect to and the authority shall cancel the same by publishing a corrigendum with immediate effect.

This order is being passed on the ground that the petitioner was granted the extension by the authority upon being satisfied about the need to allow the petitioner an opportunity to make good the losses suffered during Covid period. One last opportunity must be granted to the petitioner to make good the losses he had incurred keeping in mind the tough times and the deterioration in economic activity. When the authorities had followed a policy and allowed the temporary settlement of the ferry ghat for three years, one last opportunity is being given to the petitioner to pay up the dues.

The writ petition is disposed with the following directions :-

- a) The petitioner is directed to pay the outstanding dues along with current dues as per the terms and conditions of the deed of settlement.
- b) The unpaid outstanding dues will carry an interest of 4% per annum from the date of default till date.

- c) A demand notice with the above calculation will be served within a week from date.
- d) The demand along with such interest, as calculated by the authority, shall be paid by the petitioner within two weeks from the date of receipt of such calculation.
- e) The remaining instalments shall be paid as per the order of temporary settlement, within the time frame prescribed therein.
- f) If any amount has already been tendered and accepted, the same shall be adjusted with the payment schedule.
- g) In case of default to pay, as per the direction of this Court or as per the terms and conditions of the order granting settlement, the authority can proceed in accordance with law and cancel such settlement, without further delay. No further extension of time shall be given to the petitioner, in case he fails to pay the instalments.

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

All parties are directed to act server copy of this order.

(Shampa Sarkar, J.)