

S/L 4
21.11.2022
Court. No. 19
GB

W.P.A. 22067 of 2022

Pilot Enterprise & Anr.
VS
The State of West Bengal & Ors.

Mr. Hemanta Kumar Das.

...for the Petitioners.

*Mr. Anwar Mandal,
Ms. Sougata Mitra.*

...for the State.

The petitioners allege that despite having completed all the works arising out of several work orders allotted by the Harua Gram Panchayat, the payments have not been released. Reliance has been placed on a certificate granted by the Pradhan, Harua Gram Panchayat indicating that Pilot Enterprise, of which the petitioner no.2 is the proprietor, could not complete the works on time due to the absence of the Nirman Sahayak.

Having considered the seriousness of the allegations with regard to the unpaid dues of the petitioners of over Rs.14 lakhs, this Court had directed the Block Development Officer to file a report.

Today, the Block Development Officer has filed a report. The reasons as to why the petitioners cannot be paid a single penny have been stated.

- a) The petitioner is the son of a member of the Gram Panchayat, namely, Abdus Salam Mia. Abdus Salam Mia is the Sanchalok of Silpo o Parikatham Upa Samity. As per the rules, no member or employee of a Gram Panchayat or any of their

family members or close relatives could directly or indirectly participate in the bidding process, for execution of work as a contractor or sub-contractor. Thus, the allotment of the works in favour of the petitioners were found to be irregular.

- b) It appears from the report that the petitioners were allowed to participate in twelve tenders in violation of the rules.
- c) The petitioners did not complete a single work within the time limit and the works are still pending.
- d) NIT No.80/2020-21 dated December 24, 2020 and all the NITs of 2022-23 have been cancelled by the General Body in the meeting of Harua Gram Panchayat dated July 25, 2022.

The authority found the claims to be invalid. The petitioners have also suppressed the fact of cancellation of tenders.

This Court does not find any reason to exercise powers of judicial review by directing a mandamus upon the respondents to pay the dues, in view of the facts enumerated hereinabove. The petitioners have not come with clean hands. The allotment of works were irregular and in violation of the rules. The works were already cancelled in July 2022.

Accordingly, the writ petition is disposed of with a direction upon the Block Development Officer, Suti-I Development Block to pass a reasoned order on the claim of the petitioners and communicate the same. The reasons as to why the claims of the petitioners against each of the work orders which were issued were not admissible, shall be disclosed. Such communication will be supplied within a period of four weeks from date of communication of this order.

If the Pradhan had committed any illegality in awarding the contracts and the petitioner had invested huge money, the state ex-chequer cannot be burdened and the petitioner may approach the civil court against the pradhan individually, for damages. The claim of the petitioner against the authorities under state or the gram panchayat cannot be sustained in law, in view of the illegalities pointed out.

However, there will be no order as to costs.

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

(Shampa Sarkar, J.)