

20.12.2022
Sl. No.6(DL)
srm

W.P.A. No. 27618 of 2022

Sri Supriyo Dutta

Versus

The State of West Bengal & Ors.

Mr. Rahul Agarwala

....for the Petitioner.

Mr. Jahar Lal De,
Mr. Rudranil De

...for the State-respondents.

Affidavit-of-service is taken on record. Despite service, none appears on behalf of the respondent Nos.8 to 10.

The petitioner submits that e-NIT Memo No.431/PS dated August 16, 2022 (2nd call) and the work order issued in favour of the respondent No.8 must be cancelled. Alternatively, the petitioner must be awarded compensation for the harassment caused to him, as he had participated in the first call, but the first call was wrongly aborted.

Mr. De, learned Advocate appears on behalf of the State-respondents and submits that the writ petition lacks adequate pleadings and the writ court sitting in judicial review cannot set aside a tendering process and a work order issued in favour of the successful bidder on vague and

omnibus allegation. According to Mr. De, there has to be specific evidence of *mala fide*, bias and favouritism. He further submits that the work is in progress and a public project cannot be stopped by the Court.

The petitioner's allegation is that at the first call, the respondent Nos.8 and 10 had submitted some forged documents. A complaint to that effect was made through whatsapp to the Executive Officer of Balurghat Panchayat Samity, District-Dakshin Dinajpur. Without paying any heed to such complaint, the second call was conducted and the respondent No.8 became the successful bidder.

The petitioner does not have any allegation with regard to the documents filed by the respondent No.8 at the second call. However, the petitioner categorically maintains that a candidate who participated in a bidding process allegedly on the basis of forged documents at the first call should be completely blacklisted and debarred from participating further in any tendering process.

Admittedly, the work is in progress. There are no allegations with regard to the documents filed by the respondent No.8 in the second call. The petitioner did not participate in the second call. Thus, the writ court cannot interfere with the result of the second call and the subsequent events which took place thereafter. However the contention

of the petitioner that a bidder should not be allowed to participate in any tendering process, if at any point of time the said bidder had indulged in malpractice, must be considered by the authority, in accordance with law. It is also on record that the first call did not yield any result in view of the insufficiency in the documents submitted by the participants. Thereafter a second call was conducted.

Under such circumstances, if the petitioner files a detailed representation before the Balurghat Panchayat Samity, District-Dakshin Dinajpur, the appropriate body of the said panchayat samity shall take a decision in accordance with law upon hearing the petitioner as also the respondent No.8 and any other party interested in such tendering process. A reasoned order shall be passed and communicated to all.

The entire exercise shall be completed within a period of three months from the date of receipt of the petitioner's representation.

The writ petition is, thus, disposed of.

There shall be no order as to costs.

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

(Shampa Sarkar, J.)