

20.12.2022
Sl.No.21
Ct.19
sn

WPA 28333 of 2022

Tamal Mondal
Vs.
The State of West Bengal & Ors.

Mr. Prasenjit Mukherjee
Mr. Arghya Kamal Das
..for the petitioner
Mr. L. M. Mahata
Mr. P.B. Mahata
..for the State

The petitioner admittedly did not participate in the tendering process initiated by the Notice Inviting Tender dated December 8, 2022 which was issued vide memo no. GMGP/121/2022-23. The contention of the petitioner is that Clause 5 of the Terms and Conditions of the NIT was contrary to the memo dated July 28, 2016, issued by the Audit Branch, Finance Department, Government of West Bengal. According to Mr. Mukherjee, only NEFT/RTGS payments were to be accepted. The technical bid opening date was December 19, 2022.

There is not a single pleading in the writ petition which indicates that the petitioner wanted to participate in the process, but could not do so only because his attempt to pay the cost and earnest money through RTGS had not been accepted.

Relying upon a letter issued by the Block Development Officer, Polba-Dadpur Development Block, Barunanpara, Hooghly, dated December 14,

2022, addressed to the Pradhan, Goswami Malipara Gram Panchayat, Hooghly, the petitioner submits that the Pradhan was informed about his complaint with regard to acceptance of earnest money in the form of bank drafts contrary to the Finance Department's memo.

The Block Development Officer had already invited attention of the Pradhan with regard to the violation of the Finance Department's memo.

As the petitioner did not participate or show any interest to participate in the tendering process, no order can be passed on the prayers made in this writ petition by injuncting the authorities from continuing with the tender process. The tenders are with all regard to public works. In view of the provisions of Section 41(ha) of the Specific Relief Act, injunction in respect of public projects cannot be granted by the Court. It appears that apart from the works at serial nos. 1&2, the estimated cost of the tenders are below Rs.10,000/- and the time limit for completion of the same is 30 days.

As the Block Development Officer is already in seisin of the matter and had informed the Pradhan about the complaint of the petitioner with regard to the violation of the provisions of Finance Department's memo and acceptance of payments through bank draft, this writ petition is disposed of

directing the Block Development Officer, Polba-Dadpur Development Block, to take immediate steps with regard to complaint lodged by the petitioner in accordance with law, within a week from the date of communication of this order. The petitioner, Pradhan of the concerned Gram Panchayat and all other interested participants shall be heard. A decision shall be taken in accordance with law and communicated to all. If irregularities and violation of the government rules and regulations are detected, necessary orders shall be passed. Remedial steps shall be taken, thereafter.

It is made clear that the drafts which have been accepted in terms of clause 5 of the Terms and Conditions, shall for all practical purposes be considered as the drafts drawn in favour of the Panchayat and not in favour of the said Madhab Murmu in his personal capacity.

This writ petition is disposed of.

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

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

(Shampa Sarkar, J.)