

15.07.2022
Court No.1
Item No.14
pk/AP/sp

**HIGH COURT AT CALCUTTA
CIRCUIT BENCH AT JALPAIGURI**

**MAT 63 of 2022
With
CAN 1 of 2022**

**M/s Corporate Wave Builders and Anr.
Vs.
The State of West Bengal and Ors.**

Mr. Kallol Basu
Mr. Samik Sarkar

... For the appellants.

Mr. Subir Kumar Saha
Mr. Bikramaditya Ghosh

... For the State.

The appeal is directed against a judgment and/or order dated 22nd June 2022 passed by the learned Single Bench whereby the writ petition was dismissed at the admission stage.

The facts of the case briefly are that the writ petitioners/appellants are participated in a tender floated by the Chief Engineer, North East Irrigation, Circle-II, for protection along the left bank of river Daina for a length of 4000 meters in Block-Nagrakata, Police Station-Banarhat.

The writ petitioners/appellants along with other persons submitted tenders. The private respondent, M/s Krishna Construction, was found successful. In terms of Clause 15.4 of the NIT, the unsuccessful tenderers were entitled to take

objection to the selection of the successful bidder within a period of 24 hours.

The writ petitioners/appellants raised four objections to the bid submitted by the successful bidder, after a period of six days. The reason for delay advanced, as indicated by Mr. Kallol Basu, learned advocate appearing for the appellants, was the medical ailments of the proprietor of the appellant.

This Court is unable to countenance the said reason for delay. The objections of the appellants against award of tender to the private respondent are dealt with hereunder on merits.

The first ground indicated is that the tender submitted by the private respondent did not bear digital signature.

It is submitted by Mr. Ghosh, learned counsel appearing for the State, by reference to the records that the tender by the private respondent was submitted online, uploading a signed document.

The second objection of Mr. Basu is that the power of attorney filed by the private respondent, was not in order. Mr. Ghosh has produced the power of attorney as uploaded by the private respondent. It appears that the power of attorney

lawfully authorized to one Ms. Priti Ghosh, to act on behalf of said M/s Krishna Construction.

The third objection is that the Form No. VIII indicating the partners of private respondent is incorrect. The same does not tally with the original partnership deed of M/s Krishna Construction. Form No. VIII uploaded by the private respondent indicates the current pattern of re-constituted partnership. The said re-construction is stated to have occurred after the death of original partners.

The last objection is that the BOQ and/or credibility thereof of past experience and work done has not been authenticated by the concerned department and no reliance could have been placed thereon by the employer.

The reply of Mr. Ghosh is that if such in BOQ issued by another department under the same circle from which the respondent employer has issued the NIT, no independent authentication would be necessary, as the same can be verified by the respondent themselves.

In the above facts and circumstances of the case and having considered the objections of Mr. Basu on merits, this Court does not find the same sustainable. There is, therefore, no to discuss the decisions cited by Mr. Basu i.e. the case of ***Vidarbha irrigation Development Corporation***

and Ors. Vs. Anoj Kumar Agarwala and Ors.
reported in ***(2020) 17 SCC 577 (Para 16)*** and ***N.G.***
Projects Limited Vs. Vinod Kumar Jain and Ors.
reported in ***(2022) 6 SCC 127.***

For the reasons stated hereinabove, the
appeal fails and is hereby dismissed.

In view of the above, connected application
being CAN 1 of 2022 is disposed of.

There shall be no order as to costs.

All parties shall act on the server copy of this
order duly downloaded from the official website of
this Court.

(Rajasekhar Mantha, J.)

(Ananda Kumar Mukherjee, J.)