

29.07.2022
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Sl. No. 01
Ct. No. 05

HIGH COURT AT CALCUTTA
CIRCUIT BENCH AT JALPAIGURI

WPA 2061 of 2022

Macarav Infrastructures India Private Limited &
Anr.

-versus-

The State of West Bengal & Ors.

Mr. Sudhasatwa Banerjee
Mr. Sourav ghosh
Mr. Snehashis Sen
Mr. Abhishek Banerjee
Mr. Debraj Sahu

..... for the petitioners

Mr. Nilotpall Chatterjee
Mr. Prantik Garai

..... for the State

The petitioner seeks stay of a memo dated 22.07.2022 being a notice of proceedings of penal measures issued by the office of Superintending Engineer, North Bengal, Public Works Department. According to the learned counsel appearing for the petitioners, the impugned Notice was passed in derogation of an order passed by this Court on 22.07.2022 in the earlier writ petition filed by the petitioners complaining of the disqualification of the petitioners with reference to a tender for restoration work at Kalimpong.

Upon considering material on record, it appears that by the order passed by this Court on 22.07.2022,

the grievance of the petitioners of being disqualified from the tender was addressed by directing the respondent no. 2, namely the Superintending Engineer, North Bengal Construction Circle-II, PWD, to dispose of the two representations made by the petitioners dated 29th June, 2022 and 14th July, 2022 within a period of ten days from the date of the order.

Surprisingly however, on the very day on which the order was passed, the respondent No. 2 issued the impugned notice against the petitioners containing the very same findings which were the subject matter of challenge in the earlier proceeding. The decisions of Bid Evaluation Committee(BEC), as quoted in the impugned Notice, are identical to the earlier Notice issued to the petitioner on 27.06.2022 which was considered by the Court and the writ petition disposed of by the order dated 22.07.2022.

Hence, besides showing an absolute non-application of mind in reiterating the same findings, the authorities have also acted in total disregard of the directions passed by this Court.

Instead of considering the same and coming to the reasoned finding on the representations, the respondent No. 2 has instead proceeded to issue the notice of penal proceedings to the petitioners.

The impugned Notice dated 22nd July, 2022 hence cannot be sustained. The said Notice is set aside. Since it has been brought to the attention of the Court that the commercial bid was opened on 1st July, 2022 by the concerned authority and there has been no progress thereafter in the form of work orders being issued, this Court deems it fit to direct the respondent authorities not to proceed any further in terms of the tender before considering and disposing of the two representations made by the petitioners on 29th June, 2022 and 14th July, 2022 as had been directed on the earlier occasion.

The respondent No. 2 shall hear all necessary parties including the petitioners before passing the reasoned order. The parties including the petitioners shall be at liberty to rely on additional documents in this regard.

It is made clear that the authorities shall be at liberty of proceeding with the tender after disposing of the representations of the petitioners and communicating the reasoned order to the petitioners within five days from the date on which such reasoned order is passed.

WPA 2061 of 2022 is disposed of in terms of the above.

(Moushumi Bhattacharya, J.)