

05.01.2023
Sl. No.9(DL)
srm

W.P.A. No. 76 of 2023

Md. Salauddin Azad

Vs.

The State of West Bengal & Ors.

Mr. Manas Kumar Das,
Mr. Aritra Kumar Thokdar

....for the Petitioner.

Mr. Raja Saha,
Mr. S.P. Lahiri

...for the State-respondents.

Mr. Sarwar Jahan,
Mr. Amit Bikram Mahata,
Mr. Maidul Islam Kayal

...for the Respondent No.7.

Affidavit-of-service is taken on record.

The Court is satisfied with the explanation given by the Pradhan, Andulberia-I Gram Panchayat, District-Murshidabad, with regard to the reasons for rejection of the technical bid of the petitioner.

It appears that the details with regard to the registration of the petitioner's concern/company with the Employees' State Insurance authorities were not filed in terms of clause 21 of the Notice Inviting e-Tender. The form was blank.

Although the discrepancy in the signature could have been avoided if the petitioner was given an opportunity to rectify such minor defect, the incomplete document with regard to the details of the insurance under the Employees' State Insurance Act was a major defect. The petitioner could not produce any document in support of compliance of clause 21 of the notice initiating tender. The petitioner was not entitled to participate in the said tender for non-compliance of clause 21 of the Notice Inviting e-Tender. Clause 21 provides that Employees' Provident Fund and Employees' State Insurance Certificates, with six months up dated return must be submitted. The ESI Certificate with updated six months' return were not submitted by the petitioner, according to the Pradhan. The copies of the documents have been produced before this court.

The petitioner claims to have submitted all documents in proper form including the Employees' State Insurance certificate and the returns updated. It appears that by a letter dated December 12, 2022, the petitioner was asked to appear before the Pradhan within seven days with all documents, but the petitioner allegedly did not do so and thereafter the work order was issued to the successful bidder on December 28, 2022.

These disputed questions of facts which have arisen before the Court, cannot be gone into. The petitioner has not been able to satisfy the court that the document had been uploaded.

Under such circumstances, no order can be passed in the writ petition. The petitioner may approach the concerned authority in order to inspect the documents which he had submitted. Upon inspection, if it appears that the documents as per clause 21 had been submitted, but the authority had overlooked or ignored the same, the remedy of the petitioner would be by way of damages against the Pradhan, for such omission. If the allegation of the Pradhan is found to be correct, a reasoned order shall be passed and communicated to the petitioner.

The petitioner will be given such inspection on January 18, 2023 at 11.00 am.

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.)