

19 27.04
Ct No 2023
24
AGM

**In the High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

WPA 1934 of 2023

**A.B. Enterprises & Anr.
Vs
The State of West Bengal & Ors.**

Ms. Sanghamitra Nandy
... For the petitioners.

Mr. Sirsanya Bandopadhyay
Mr. Tirthankar De
Mr. Arka Kumar Nag
... For the BMC.

Mr. Sk. Md. Galib
Mr. Anubrata Santra
... For the State.

The petitioners' prayer for releasing payment on account of the work performed by the petitioners is pending consideration at the end of Bidhannagar Municipal Corporation.

The petitioners submit that after completion of the work in terms of the work order and after submission of the bills no payment has been made.

Representation filed by the petitioners is pending consideration.

Learned advocate for the petitioners refers to the remarks by the Executive Engineer PWD, Bidhannagar Municipal Corporation on 3rd November, 2021 certifying that the work is in progress satisfactorily and there is no penal action against the executing agency.

Learned advocate representing the Bidhannagar Municipal Corporation raises an issue with regard to the maintainability of the writ petition.

It has been submitted that the writ petition is a money claim. The same ought not to be entertained by the writ Court.

The learned advocate for the Corporation has not been able to show any document before the Court that the payment of the petitioners has been made in accordance with law and in accordance with the terms and conditions of the tender.

There is nothing on record to show that the petitioners were intimated the reasons for non payment of the amount.

The Commissioner of Bidhannagar Municipal Corporation is, accordingly, directed to consider the prayer of the petitioners seeking release of payment.

A decision shall be taken by the aforesaid respondent in accordance with law, at the earliest but positively within a period of twelve weeks from the date of communication of this order. An opportunity of hearing be given to the authorized representative of the petitioners prior to passing a final order in the matter.

If the aforesaid respondent is of the opinion that any sum is due and payable to the petitioners, then the same shall be released in favour of the petitioners within a period of three months thereafter.

Learned advocate for the petitioners is directed to

forward a copy of the representation dated 1 December, 2022 along with all supporting documents relating to the claim to the aforesaid respondent at the time of communicating the order of the Court.

There is no prayer for paying the due amount with interest and the learned advocate for the petitioners submits, upon instruction that, interest has not been prayed for.

Accordingly, the Commissioner is not required to pay any interest on the amount that is outstanding and payable to the petitioners.

The writ petition stands disposed of.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Amrita Sinha, J.)