

Item No.2
31.03.2023
Court. No. 19
GB

WPA 3740 of 2023

Abul Khayer Gazi
Vs
The State of West Bengal & Ors.

*Mr. Soumya Banerjee,
Ms. Sucheta Banerjee*

...for the Petitioner.

*Mr. Lalit Mohan Mahata,
Mr. Rudranil De*

...for the State.

A copy of the enquiry held by the Joint Block Development Officer, Minakhan Development Block, The JE (WRDD), that is the Nirman Sahayak, Minakhan Development Block and the Panchayat Development Officer, Minakhan Development Block has been filed. The enquiry report is taken on record. The Block Development Officer, Minakhan Development Block has forwarded the enquiry report. The findings of the enquiry are as follows:-

“1. As per Executive Assistant & Nirman Sahayak of Bamanpukur GP, the petitioner, Abul Khayer Gazi has not submitted the EMD Draft till 06/02/2023 (Last date of submission of EMD physically as mentioned in the NITs)

2. As per petitioner, Abul Khayer Gazi, he has not come to Bamanpukur GP office for submission of EMD Draft till 05/02/2023 due to server problem and he claimed that he had gone to Bamanpukur GP Office for submission of EMD Drafts on 06/02/2023 but as some political agitation was going on that day in front of the GP office, he became afraid and did not submit the EMDs.

3. As per Pradhan, Bamanpukur GP, she was absent on 06/02/2023 and she knew nothing about the submission of EMD Draft by the petitioner.”

The Court arrives at the following conclusion on the basis of the findings:-

- a) The petitioner had not deposited the demand draft till February 6, 2023, which was the last date of filing the same.
- b) The petitioner submitted before the enquiry committee that he did not go to Bamanpukur Gram Panchayat office for submission of the draft till February 5, 2023 but he went to the gram panchayat office on February 6, 2023. On February 6, 2023 a political agitation was going on in front of the gram panchayat office. Thus, the petitioner got scared and left without submitting the demand draft.
- c) The Pradhan appeared before the enquiry committee and submitted that she was not present on February 6, 2023 in the office and would not be able to testify whether the petitioner was physically restrained or not.

The fact remains that up to February 5, 2023 the petitioner did not deposit the demand draft. On the last date of submission, that is, February 6, 2023 it is the petitioner's case before the Court that he was not entertained whereas, the enquiry committee has stated that the petitioner submitted before the committee that he went to the office of the gram panchayat but due to political agitation he got scared and left the place without depositing the demand drafts.

This disputed question of fact cannot be gone into by the writ Court. Moreover, the terms and conditions of the e-auction are specified in the notice. The Court cannot change the schedule unless the petitioner can substantially prove on the basis of the facts, laws and the terms and conditions of the e-auction that the authority had proceeded illegally thereby depriving legitimate bidders. This is an e-auction process and the portal closes. Thus, it will also not be possible for the authority to reopen the portal and accept the petitioner's draft.

Under such circumstances, nothing further can be directed in the writ petition.

Accordingly, the writ petition is disposed of without any orders. The authority shall continue with the e-auction in accordance with law.

However, there will be no order as to costs.

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

(Shampa Sarkar, J.)