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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

W.P.A. No. 3840 of 2023

M/s. Arham Management
Solution Pvt. Ltd.
Vs.
The State of West Bengal & Ors.

Mr. Debasish Kundu
...for the petitioner

Mr. Nilotpal Chatterjee,
Ms. Amrita Panja Moulick
...for the State

Affidavit-of-service filed in Court today be kept
on record.

Learned counsel appearing for the petitioner
submits that the petitioner has preferred a
challenge against the recall of an allocation of a plot
to the petitioner for running a sweet hub.

Learned counsel appearing for the petitioner
submits that in terms of the tender document as
well as the agreement between the parties, the
respondent-authorities were to arrange for
electricity connection, water supply, sanitation
arrangement, etc. and the bill for consumption of
electricity and day-to-day expenses of other
facilities should be paid by the O & M Contractor in
due time.

However, during the pandemic times, the petitioner was in difficulty to start up the enterprise. More importantly, due to highway construction works going on at the relevant point of time just in front of the site, the petitioner was in considerable difficulty to set up business. That apart, contrary to the assurance given by the respondent-authorities, no infrastructure and facilities for giving electricity connection was given by the respondent, which resulted in the petitioner not able to set up the enterprise. Hence, it is argued that the impugned termination is patently bad in law. That apart, it is argued that the terminating authority is different from the authority issuing the contract, since the contract was issued by the District Magistrate (Development) but was terminated by the Additional District Magistrate (General).

Learned counsel appearing for the respondent-authorities places reliance on the relevant clause of the agreement and the tender document and submits that the petitioner was to start the enterprise within three months from the date of agreement, that is, from April 08, 2019. The said three months expired long prior to the onset of the pandemic. That apart, at the relevant time, the petitioner did not make any communication to the

authorities regarding the lack of facilities as alleged herein.

With regard to authority, learned counsel on instruction submits that the Additional District Magistrate (General) issued the termination letter in consultation with and within the authority of the District Magistrate (Development).

A perusal of the conditions of lease undoubtedly indicates that the respondent-authorities were duty-bound to provide electricity connection and other facilities to the petitioner.

However, here is nothing on record to indicate that the petitioner, at any point of time prior to the expiry of the stipulated three months after the agreement dated April 08, 2019, made any communication to the respondents regarding the dearth of facilities and/or any difficulty due to the construction of Highway or non-availability of electricity arrangement.

In fact, as rightly pointed out by the State, the pandemic started much after the expiry of the stipulated period and could not be a relevant factor in the circumstances of the present case.

The petitioner made an allegation of lack of amenities for the first time in the year 2022, that is, after the lapse of about three years from the date of agreement, even as per annexures relied on by the

petitioner in the present case. Hence, there is nothing to show that the petitioner brought to the notice to the respondent-authorities any dearth of arrangement of electrical facilities or any other issue at the relevant point of time.

Insofar as the authority of the terminating authority is concerned, it is seen from a bare perusal of the agreement that the same was authored by the Additional District Magistrate (Development), Nadia, thereafter called the District Authority (Owner of the premises *and on behalf of the DM, Nadia*). Hence, the Additional District Magistrate (Development) acted on behalf of the District Magistrate (Nadia), even at the juncture of issuing the agreement in favour of the petitioner. Hence, although the Additional District Magistrate (Development) was, on paper, the signatory, the agreement was entered into on behalf of the District Magistrate, who terminated the contract which is impugned herein. Hence, the objection as regards authority taken by the petitioner cannot be upheld.

In view of the above discussions, there is nothing on record to show that the petitioner complied with the formalities as stipulated in the agreement and tender document between the parties.

Hence, there is no scope of entertaining and/or interfering in the present writ petition.

Accordingly, W.P.A. No. 3840 of 2023 is dismissed on contest without, however, any order as to costs.

Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance of all necessary formalities.

(Sabyasachi Bhattacharyya, J.)