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23.03.2023
Court. No. 19
GB

WPA 4225 of 2023

Mahua Jana & Ors.
Vs
The State of West Bengal & Ors.

Mr. Anindya Bose,
Mr. Diptendu Mandal,
Mr. Mridul Biswas

...for the Petitioners.

Mr. Jahar Dutta,
Mr. Bipin Ghosh

...for the State.

Affidavit-of-service filed in Court today, be kept with the record.

Despite service, none appear on behalf of any of the respondents.

The petitioner no.1 is a member of the Sarbodaya Gram panchayat and the petitioner nos.2 and 3 are the members of the Artho-O-Parikalpana Upa Samity. According to the petitioners, the Pradhan and his associates in the gram panchayat have not followed the provisions of law and the Procurement Manual, before publishing the notice inviting tenders under the 15 CFC.

The petitioners contend that the meetings of the Artho-O-Parikalpana Upa Samity were not held before the decision was taken for publication of the tender notices.

The petitioners are not the participants in the tender process. None of the other contractors who were prospective bidders have also come before the Court challenging the

process. The bidders who were not allotted the work orders, have also not challenged the process.

Thus, this Court does not think it necessary to pass any orders with regard to the tenders which were given effect to on January 20, 2023, especially because the works are either completed or near completion. However, the members of the Artho-O-parikalpana Upa Samity and the panchayat have a right to ensure that the Procurement Manual and the rules are followed.

It has been provided that decisions with regard to tenders and all matters relating to acceptance of tenders and bids, must be routed through the Artho-O-Parikalpana Upa Samity and the decision of the said Upa Samity should precede every action.

The Court finds that the allegations are serious in nature as they affect the very democratic functioning of the gram panchayat.

The Court however expresses no opinion on the correctness of the allegations as the records are not before the Court. There are disputed facts.

Under such circumstances, the petitioners would be at liberty to approach the District Panchayat and Rural Development Officer with their allegation that the gram panchayat had not been functioning in accordance with law. If such representation is filed, the same shall be disposed of upon granting an opportunity of hearing to the Pradhan, the Executive Assistant, Nirman Sahayak, the Secretary and other members of the Sarbodaya Gram Panchayat. A

reasoned order shall be passed and communicated. If corrective measures or remedial measures are found to be necessary then such suggestions and directives shall be issued. This Court has not entered into the merits of the allegations.

Accordingly, the writ petition is disposed of.

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.)