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W.P.A. 5900 of 2019

Sri Animesh Pandey

Vs.

The State of West Bengal & ors.

Mr. Rudranil De

... for the petitioner

Mr. Malay Singh

Mr. Tapas Ballav Mandal

... for the State

This is an application under Article 226 of the Constitution of India wherein the writ petitioner is aggrieved by the order dated December 27, 2017 passed by the respondent authorities wherein the respondents have rejected the claim of the petitioner.

It is to be noted that a work order was issued by the order dated February 8, 2017 to the petitioner. The same is delineated below :

“Dear Sir,

With reference to the above the undersigned likes to inform you that the rates offered by you on 08.02.2017 for execution of work of Bhangra WHS (BGREI 2016-17) Soil Conservation scheme in P.S. Purulia II have been accepted and you have been appointed as the beneficiary contractor of the said scheme. Earnest money which has been furnished by you has been converted to security money for the scheme. The rate for each item of work is as at per sanctioned estimate.

You are therefore requested to start the work of the above scheme within 7 (seven) days from the date of receipt of this work order with prior intimation to this office. You are also requested to complete the work of the scheme in all respects by 02.03.2017 positively as per planned and specifications which may be seen in this office. Failing of which your contract will be cancelled and security money will be forfeited and no payment to the work of incomplete scheme, what so ever done, will be made. The receipt of this letter may please be acknowledged.

Yours faithfully,

Assistant Director of Agriculture
(Soil Conservation), Jhalda”

It appears from the said work order that the work was to be completed in all respect by March 2, 2017. However, it is clear that the petitioner did not approach the respondents in the month of March, 2017 but only approached them much later on 19th June, 2017.

As per direction of co-ordinate Bench of this Court, a reasoned order has been passed by the Assistant Director of Agriculture (Soil Conservation), Jhalda dated 27th December, 2017 wherein the petitioner was asked as to why he did not initiate the work as per the scheme to which there was no reply given by the petitioner.

In light of the same, it is clear that the work was not completed by the petitioner within the time frame provided in the work order.

In my view, there are disputed question of facts and the Writ Court is not the ideal place for adjudicating on the particular issue. From the facts it appears that the work was not completed in time and accordingly, the respondent has not made payment to the petitioner as per the scheme.

In my view, the writ petitioner is required to approach before the appropriate court and file a suit for his claim, if any.

However, upon consideration of the arguments placed by both the Counsels, it appears that a sum of Rs.28,000/- was deposited by the petitioner for being

eligible for the said scheme. The said sum of Rs.28,000/- should be returned by the respondents to the petitioner within a period of six weeks from date along with interest at the rate of 4% p.a.

In light of the above directions, this writ petition is disposed of.

All parties are to act on website copy of this order.

(Shekhar B. Saraf, J.)