

05.04.2023
Ct. 5
D/L 6
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WPA 8197 of 2023

M/s. Neogi Construction and Company & Anr.

-Vs-

The State of West Bengal & Ors.

Mr. Saptangshu Basu,
Mr. Atulya Sinha,
Ms. Utsa Datta

... for the petitioners

Mr. Amal Kr. Sen,
Mr. Jaladhi Das

... for the State

The petitioners are aggrieved by an order dated 27.03.2023 passed by the Chief Medical Officer of Health (CMOH), Nadia debarring the petitioners from taking part in any tender under the Health and Family Welfare Department for one year with effect from 27.03.2023 and cancelling all work orders issued in favour of the petitioner no. 1.

The impugned order is the third and the last in a series of orders passed by the CMOH namely on 28.11.2022, 12.12.2022 and finally on 27.03.2023. The orders on record show that the petitioner no. 2 did not appear before the CMOH on 28.11.2022 and filed his written notes of arguments on the next date of hearing on 12.12.2022. The fact, that the petitioner no. 2 did not appear on the dates scheduled for hearing of the

matter, is also apparent from the statements made in the writ petition. The facts further show that the CMOH heard the matter pursuant to an order passed by a coordinate Bench on 26.08.2022 in relation to a writ petition filed by the private respondent, directing the CMOH to look into the allegations made in the review application filed by the private respondent along with the representation dated 07.04.2022 also filed by the private respondent and take a decision in the matter.

Learned counsel appearing for the petitioners submits that the petitioners were eligible for being awarded the tenders in question which was challenged by the private respondent.

Learned counsel appearing for the State/CMOH submits that apart from being absent on the dates fixed for hearing, the petitioners have also not disclosed any evidence of eligibility in the written notes of arguments filed by the petitioners.

Upon hearing counsel for the parties and considering the materials before the Court, this Court is of the view that whatever be the eligibility of the petitioners, or the lack of it, the veracity of the allegations made by the private respondent against the petitioners must culminate in a reasoned order. This is particularly since the petitioners have been debarred from participating in any tenders under the Health and Family Welfare department, Nadia for one year. The

petitioners' existing tenders have also been cancelled. This certainly involves harsh and civil consequences on any party at the receiving end of such an order. The petitioners must at least know the basis for the impugned order.

WPA 8197 of 2023 is accordingly disposed of with liberty given to the petitioners to provide all evidences, documentary and otherwise, disputing the allegations made in the representation filed by the private respondent. The petitioner no. 2 shall also ensure that he is not absent on any date fixed by the CMOH, Nadia for hearing of the matter. The CMOH, Nadia/respondent no. 4 is directed to re-consider the facts and evidences and pass a fresh order with reasons as to the decision taken by the CMOH. The petitioners shall file its evidence and documents within two weeks from date. The CMOH, Nadia shall call upon the petitioners and any other necessary parties for hearing within five weeks from date and pass a reasoned order within seven weeks from date. The impugned order dated 27.03.2023 shall not be given effect to until the CMOH, Nadia comes to a fresh decision in the matter.

(Moushumi Bhattacharya, J.)