

06 25.04.2023
AN Ct. No. 01
RP

WPA (P) 166 of 2023

Mr. Swapan Ray
Vs.
The State of West Bengal & Ors.

Mr. Somnath Saha
Ms. Chaitali Chatterjee

... For the Petitioner

Mr. Samrat Sen, Ld. AAAG
Mr. Nilotpall Chatterjee
Mr. Amrita Lal Chatterjee

... For the State

Mr. Arnab Chakraborty
Ms. Pragya Bhowmick

... For the Respondent No.3

Mr. Amitabha Ghosh
Mr. Indrajit Ghosh

...For the Respondent No.7

1. This writ petition styled as Public Interest Litigation seeks to contend that in the tender invited by the third respondent for executing certain works pertaining to floating type Gangway-cum-Pontoon Jetty at various places vide tender notification no. MBL/WBTIDC/NIT 7 of 2018-19, the successful tenderer, namely, the seventh respondent has annexed bogus documents along with the tender and while evaluating the bid of the seventh respondent the authority, namely, the ninth respondent did not go into this aspect. As a result of which, there is illegality in the award of the tender in favour of the seventh respondent and necessary orders should be passed to set aside the same and for other consequential directions to initiate action against the seventh respondent.

2. Learned advocate appearing for the third respondent, namely, the tender inviting authority, submitted that the tender was for the year 2018-2019 and as on date the project has been completed and handed over and the present attempt on the part of the petitioner at such a belated stage raises serious doubt as to the bonafide of this public interest litigation. Further, it is submitted that after the representation was received the third respondent had sent a communication to the writ petitioner in the address given by the writ petitioner in the representation. The said communication returned with an endorsement "insufficient address". The subsequent notice sent to the writ petitioner also returned with the same endorsement and it is thereafter a legal notice has been sent on behalf of the petitioner on 7.11.2022. It is further submitted that the bonafide of the writ petitioner is also to be examined as to why this writ petition has been filed at such a belated stage, more particularly, when all the details, more particularly, the list of technically qualified bidders, is published in the web portal and the notice inviting tender grants 48 hours time for persons to file their objections and if, according to the petitioner, the seventh respondent suffered from any disqualification nothing prevented him from lodging an objection within the time stipulated in the notice inviting tender. Thus, it is the contention of the seventh respondent that there is something more than what meets eye in the present writ petition styled as public interest litigation.

3. Learned advocate for the seventh respondent attributed certain malafides against the writ petitioner and would state that the present writ petition is sponsored by a third party against whom the seventh respondent has filed a suit claiming more than Rs.82,00,000/- in the Commercial Court and the matter is pending. In any event, we are not here to go into all these disputed questions which can very well be examined by the third respondent which is a public sector undertaking. Now a legal notice has been sent by the writ petitioner and the address of the writ petitioner is very much available in the said legal notice. The grievance expressed by the writ petitioner can be examined. However, on going through the legal notice dated 23.07.2023 we find that the address given by the writ petitioner is very vague. There is no door number as to where he resides and it is stated that he is a temporary resident. Therefore, it is also one more issue which may cast a shadow of doubt as to the genuineness of the grievance of the writ petitioner. Therefore, we are of the view that the following direction will meet the ends of justice.

4. We direct the writ petitioner to appear before the third respondent in person and while appearing before the third respondent the writ petitioner should produce his identity such as Aadhar Card, other certified documents to show his place of residence etc. The petitioner should also disclose as to his source of livelihood, whether he is employed or not and if the third respondent is satisfied with the identity of the writ petitioner then the representation

given by the writ petitioner through his advocate can be examined. Notice be issued to the seventh respondent and the matter be decided in accordance with law.

5. With the above directions, the writ petition stands **disposed of**.

(T. S. Sivagnanam)
Acting Chief Justice

(Hiranmay Bhattacharyya, J.)