

Item No.2

26.06.2023
Ct-24

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 14697 of 2023
Habibur Rahaman

v.

The State of West Bengal & Ors.

Mr. Saibal Acharya
Mr. Shahan Shah
Mr. Soumen Barman
... for the petitioner.

Mr. Lalit Mohan Mahata
Mr. Rudranil De
... for the State.

Mr. Samim Ahammed
Mr. Arka Maity
Md. Nazimuddin Siddique
Mr. Nepesh Majhi
Mr. Gulsanwara Pervin
... for the respondent no. 8.

Ms. Sonal Sinha
Mr. Tarun Kumar Chatterjee
Mr. Sujit Gupta
Mr. Sayan Datta
Mr. Soumen Chatterjee
... for the State Election Commission.

The petitioner seeks for a direction upon the State Election Commission to reject the candidature of the private respondent no. 8 on the ground that the said respondent is an existing contractor in respect of the concerned Gram Panchayat.

Reliance has been placed on the directive passed by the Election Commission dated April 12, 2023 wherein the list of persons who would be eligible and ineligible to contest the Panchayat General Elections have been mentioned.

It has been submitted that the petitioner has an existing contract with the respondent no. 8 and the bills raised by the private respondent are yet to be disbursed.

Learned advocate representing the respondent no. 8 denies the contention of the petitioner.

It has been submitted that the contract in question expired long back. There is no due from the Panchayat in favour of the private respondent. There are, however, dues pending from the end of the Central Government which may be disbursed through the Panchayat.

The private respondent relies upon a completion certificate issued by the Pradhan of the Gram Panchayat on June 21, 2023 to the effect that the agency completed the supply work in the year 2021-2022.

Learned advocate representing the State respondents relies upon the order of the State Election Commission dated May 27, 2022 being no.1802-SEC/6D-H/2008 wherein it has been mentioned that every candidate at the time of filing nomination papers seeking election shall furnish full and complete information in the prescribed format.

A form of declaration is to be signed by the candidate before the Panchayat Returning Officer and the information so furnished by the candidate shall be disseminated by displaying a copy of the declaration on the notice board and by uploading the scanned copy of the said declaration in the website of the Commission and also by making copies thereof freely available to all other candidates.

If a rival candidate furnished information to the contrary by means of a duly sworn affidavit, then such affidavit shall also be disseminated along with a declaration of the candidate.

It has been submitted that the petitioner being the rival candidate of the private respondent did not file any affidavit objecting to the candidature of the private respondent.

Learned advocate representing the State Election Commission and the State respondents submits that as the process of election is ongoing and the final list of contesting candidates has already been published, accordingly, at this stage the writ Court ought not to adjudicate the dispute. The recourse of the writ petitioner is to file an election petition.

It appears from records and upon hearing the submissions made on behalf of the petitioner that no formal objection has been lodged by the petitioner against the candidature of the private respondent. The completion certificate relied upon by the private respondent has been obtained after the date of election was notified by the Commission.

Whether the contract of the petitioner can be treated as an existing contract or contract duly completed, is to be decided by the Commission.

At this stage this Court may not be the appropriate forum to adjudicate the issue.

In view of the above, no relief can be granted to the petitioner in the instant writ petition.

The writ petition fails and is hereby dismissed.

It will, however, be open for the petitioner to agitate the issue before the appropriate forum, in accordance with law, if so advised.

The completion certificate relied upon by the private respondent issued by the Pradhan of the Gram Panchayat on June 21, 2023 be retained with the records.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

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(Amrita Sinha, J.)