

Item No. 11

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

25.09.2023
Ct-24
A.G.M.

WPA 17176 of 2023
Nandalal Saha
v.
Raiganj Municipality & Ors.

Mr. Gautam Kumar Thakur
... for the petitioner.

Ms. Ipsita Banerjee
Mr. Janardan Mandal
... for the State.

Mr. Sirsanya Bandopadhyay
Mr. Arka Kumar Nag
Ms. Deboleena Ghosh
... for the Municipality.

Perused the report filed by the Special Secretary, Department of Urban Development and Municipal Affairs wherefrom it appears that the list of 269 schemes under the Raiganj Municipality was duly forwarded to the department seeking allotment of funds in August 2018 and again in May 2019.

A field enquiry report dated 16th May 2019 is annexed to the report. The field enquiry was conducted by the Executive Engineer, ME Directorate, Dinajpur Division. The field enquiry report mentions that a thorough investigation by the office of the Executive Engineer was conducted and it revealed that the works were done between the year 2013 and 2016. As per eye observation the works are found to exist physically.

The works of serial nos. 214, 256, 261 and 266 were not done. The estimate was not vetted from the Division/Directorate. Some of the other estimates were vetted by the Uttar Dinajpur Zilla Parishad. The Division/Directorate was not involved in the tender process/supervision of works/payment related matters in respect of the said schemes.

The estimate in connection with the works performed by the petitioner does not appear to have been vetted at all.

The stand of the State is that as the Municipality did not obtain any prior approval from the department, accordingly, the State will not bear the financial responsibility in connection with the work performed.

A criminal case is pending against the erstwhile Chairman of the Municipality during whose tenure the tender was floated.

According to the Municipality, the petitioner was well aware of the criminal proceeding and, accordingly, the petitioner did not raise his demand at the appropriate time. Only after the new board came into existence, the demand has been pressed.

It appears from the rival submissions made on behalf of the parties that the petitioner is yet to receive the payment. Whether the payment can be made to the petitioner or not in the conspectus of facts revealed in the writ petition, the supplementary affidavit and the report filed by the State respondents, the Principal Secretary, Department of Urban Development and Municipal Affairs is directed to take a decision in the matter.

An opportunity of hearing shall be given to the petitioner and the representative of the Municipality prior to taking a decision in the matter.

A reasoned order shall be passed and communicated to the parties. If it appears that the petitioner will be entitled to get any payment, then necessary consequential directions may be passed.

A decision shall be taken at the earliest but positively within a period of twelve weeks from the date of communication of this order.

The writ petition stands disposed of.

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

(Amrita Sinha, J.)