

February 13, 2023
Item No. 31-33
Court No.1
PA(RB)

WPA/19438/2022
GEOCON INDIA AND ORS.

VS.

STATE OF WEST BENGAL AND ORS.

with

WPA/19435/2022
GEOCON INDIA AND ORS

VS.

STATE OF WEST BENGAL AND ORS.

with

WPA/19433/2022
GEOCON INDIA AND ORS.

VS.

STATE OF WEST BENGAL AND ORS.

Mr. Ramanuj Banerjee,

... for the petitioners

Mr. Sirsanya Bandopadhyay,

Mr. A.K. Nag,

Ms. Chama Mookerjee,

Mr. Aniruddha Mohanta, Advocates

... for the State in WPA 19438 of 2022

Mr. Sirsanya Bandopadhyay,

Mr. A.K. Nag,

Mr. Ashim Kr. Ganguly,

Mr. Bellal Sk., Advocates

... for the State in WPA 19435 of 2022

Mr. Kamalesh Bhattacharyya,

Mr. Aninda Bhattacharyya, Advocates

... for the WBSWC in WPA 19435 of 2022

The above three petitions have been filed by the petitioners raising the same issue in similar factual background. These petitions have been referred by the learned Single Judge by order dated 13th of September, 2022. Hence, the facts are noted from WPA 19438 of 2022.

In this petition, the petitioners have raised a grievance against the turnkey tenders issued by the respondent no. 8. The plea taken in the writ petition is that the respondent no. 8, by issuing such tenders, has deprived the petitioners and all other similarly situated persons working in the field of soil investigation, LDS, rising main, switch room, OHR, boundary wall, etc. from receiving the contract. The prayer in the writ petition is to direct the respondent no. 8 to cancel the NITs for turnkey tenders. Two such NITs are enclosed with the petition as annexure 'P-1' and 'P-2'. Further prayer is to start departmental enquiry and award exemplary punishment to the respondent no. 8 and also to register FIR against him under Section 13 of the Prevention of Corruption Act, 1988.

Submission of learned counsel for the petitioners is that the petitioners are similarly situated persons and not in a position to participate in such turnkey tenders and the tender could not have been issued without the soil testing work and preparation of DPR.

As against this, learned counsel for the respondent has drawn the attention of this Court to the prayer clause of the petition and has submitted that it is not a PIL and petitioners cannot be

considered because they do not fulfill the eligibility conditions of the NITs and that considering the nature of the project, breaking up of the work is not feasible, therefore, turnkey tender has been issued.

We have heard the learned counsels for the parties and perused the record.

We find that the petitioner has approached this Court for a personal cause with the grievance that on account of issuance of NITs relating to turnkey work, the petitioners are deprived of opportunity to participate inspite of having the credentials for doing soil investigation works. For such a personal grievance, PIL is not the remedy.

That apart, it is also noticed that it lies within the domain of the State authorities to have policy decision to issue an NIT for turnkey work depending upon the nature and requirement of the work. Apart from making some general allegation, nothing has been pointed out by the petitioner to show any illegality in issuing such NITs. It is also worth noting that the NITs, annexure 'P-1' and 'P-2' were issued in the month of April, 2022, thereafter, the tender process must have been completed by now. The plea which the petitioners are raising does not have any factual or legal foundation for interference in a PIL. Hon'ble Supreme Court in the matter of **Ashok**

Kumar Pandey vs. State of W.B. reported in **(2004)**

3 SCC 349 has held that:

“4. When there is material to show that a petition styled as a public interest litigation is nothing but a camouflage to foster personal disputes, the said petition is to be thrown out. Before we grapple with the issue involved in the present case, we feel it necessary to consider the issue regarding public interest aspect. Public interest litigation which has now come to occupy an important field in the administration of law should not be “publicity interest litigation” or “private interest litigation” or “politics interest litigation” or the latest trend “paise income litigation”. If not properly regulated and abuse averted it also becomes a tool in unscrupulous hands to release vendetta and wreak vengeance as well. There must be real and genuine public interest involved in the litigation and not merely an adventure of a knight errant or poke one's nose into for a probe. It cannot also be invoked by a person or a body of persons to further his or their personal causes or satisfy his or their personal grudge and enmity. Courts of justice should not be allowed to be polluted by unscrupulous litigants by resorting to the extraordinary jurisdiction. A person acting bona fide and having sufficient interest in the proceeding of public interest litigation will alone have a locus standi and can approach the court to wipe out violation of fundamental rights and genuine infraction of statutory provisions, but not for personal gain or private profit or political motive or any oblique consideration. These aspects

were highlighted by this Court in Janata Dal case and Kazi Lhendup Dorji v. Central Bureau of Investigation. A writ petitioner who comes to the court for relief in public interest must come not only with clean hands like any other writ petitioner but also with a clean heart, clean mind and clean objective. See Ramjas Foundation v. Union of India and K.R. Srinivas v. R.M. Premchand.”

We also noticed that the prayers have been made in the petition in an irresponsible manner and no case is made out to allow such prayers. If the petitioners feel aggrieved by any clause of a particular NIT, then proper remedy is to approach the Writ Court under Article 226 of the Constitution, that to, if any legally sustainable ground exists. Hence, at this stage, we do not find any ground to entertain the present petition.

The petitions WPA 19438 of 2022, WPA 19435 of 2022 and WPA 19433 of 2022 are accordingly dismissed.

[Prakash Shrivastava, C.J.]

[Rajarshi Bharadwaj, J.]