

D/L. 2.
July 19, 2023.
MNS.

WPA No. 20455 of 2022

Samir Mabhai
Vs.
State of West Bengal and others

Mr. Anindya Lahiri,
Mr. Samrat Dey Paul

... for the petitioner.

Mr. Rejaul Alam,
Mr. S. M. Hassan,
Ms. Anupama Yasmin

...for the Haldia Municipality.

Mr. Rupak Ghosh,
Mr. Chayan Gupta,
Mr. Sayantan Chatterjee,
Mr. Dwip Raj Basu

...for the respondent nos. 11 & 12.

The supplementary affidavit filed today be
kept on record.

Learned counsel for the Haldia
Municipality has filed a supplementary affidavit,
where it is indicated that, as the AMRUT, 0.2
Project, has already spent its force on March 31,
2023, the tender process which was challenged
before this Court has been rendered infructuous.

It is submitted that for the present, there is
no scope of modification of the order impugned,

since the tender process cannot go on in view of the project itself having ended.

Learned counsel for the Haldia Municipality further submits that, accordingly, the writ petition has become infructuous.

Learned counsel appearing for the petitioner vociferously opposes such contention and submits that the prayers in the writ petition were not confined only to a challenge against the tender process.

By placing particular stress on relief (d) sought in the writ petition, it is submitted that, by virtue of the same, the petitioner seeks an appropriate vigilance and/or criminal enquiry by the Criminal Investigation Department (CID), Government of West Bengal, in the affairs of one Subir Nag, an Executive Engineer, with regard to the tender floated for the Urban Local Bodies within his jurisdiction on the allegation of certain illegalities on his part.

Upon query of court, learned counsel for the petitioner submits that although no complaints were lodged specifically before any criminal authorities, the writ petition itself contains sufficient documents and pleadings to indict the

said person for several unlawful and criminal activities.

Learned counsel for the petitioner also seeks liberty to take appropriate instruction as to the veracity of the statements made in the supplementary affidavit filed today.

In view of the submission of the Haldia Municipality itself, which floated the tender, that the project for which tender was floated has ended on March 31, 2023, there is no further scope of deciding the writ petition on any issue regarding such tender.

However, in so far as the relief (d) is concerned, the petitioner's grievances remain unredressed. From the materials on record, it is clear that no complaint was ever lodged by the petitioner with regard to the alleged criminal activities of the person concerned, that is, the Executive Engineer, named in the writ petition, regarding the alleged illegalities committed by the said Officer.

It is beyond the scope of the writ jurisdiction to enter into the aspect of whether the allegations against the said Executive Engineer were justified or baseless.

Be that as it may, mere disposal of the writ petition on the ground of the same being rendered infructuous does not prevent the petitioner from making appropriate complaint before the relevant criminal authorities as well as the respondent authorities.

Accordingly, WPA No. 20455 of 2022 is disposed of as infructuous with liberty, however, to the petitioner to approach the Investigating Agencies/ Law Enforcement Authorities as well as the present respondents, with the specific complaints and instances contending details of the alleged illegal activities done by Sri Subir Nag, Executive Engineer.

If so approached, all such authorities shall duly take steps in that regard, if necessary, upon giving opportunity to the petitioner to present all documents to substantiate such complaint, within a reasonable period.

It is made clear that the merits of the complaint are not gone into by this Court and it will be open to the Investigating Authorities as well as the respondents herein to deal with such complaints in accordance with due process of law.

If necessary, an enquiry/investigation/departmental enquiry may be undertaken by the respondent authorities and/or any investigating agency on the basis of the complaint of the petitioner.

There will be no order as to costs.

Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)