

23.11.2023
Item No.6
Ct. No.1
PG/KS

M.A.T. 1612 of 2023
With
IA No. CAN 1 of 2023
M/s. Greentech Environ
Management Private Limited & Anr.
Vs.
The State of West Bengal & Ors.

Ms. Reshmi Ghosh
Ms. Barnali Ghantaifor the Appellants

Mr. Sirsanya Bandyopadhyay
Mr. Avishek Guha
Ms. Akanksha Chopra.....for the respondents
2 to 4

Mr. Jayanta Samanta
Ms. Arpita Mondal.....for the State

1. This intra-Court appeal by the writ petitioners is directed against the judgment dated 8th August, 2023 in W.P.A. 18204 of 2023. In the said writ petition the appellants had challenged the communication issued by the Chief Engineer of the respondent authorities dated 27th July, 2023. By the said communication, the appellants were informed that the certificate issued to the appellants dated 6th September, 2021 is revoked. Prior to such communication dated 27th July, 2023, a show cause notice was issued to the appellants/writ petitioners dated 23rd June, 2023.

2. On a careful reading of the show cause notice, it is seen that there is no allegation of fraud against the writ petitioners nor there is any allegation that the Chief Engineer, who issued the certificate had issued a fraudulent certificate with distorted facts. The allegation was that the appellants/writ petitioners were treating the certificate as a credential certificate. The certificate is dated 6th September, 2021, which certifies that the appellants have successfully set up and have been operating 5 municipal solid waste treatment facilities for Bio-remediation and Bio-Mining of legacy waste of dumpsites utilising scientific method on turnkey basis each with a capacity of 600 metric ton per day at 5 locations across West Bengal. The certificate further states that the appellants/writ petitioners had successfully completed Bio-Remediation of legacy waste quantity of 6.10 lakh metric tons upto 31st July, 2021 in seven sites across West Bengal. The said certificate further specifically states that the respondent authorities are satisfied with the performance of the appellants/writ petitioners so far.
3. Thus, reading the certificate along with the allegations in the show cause notice, clearly shows that at no point of time, the KMDA had

alleged any fraud against the appellants/writ petitioners nor against any of its officers. The only issue was that as to how the certificate has to be interpreted. According to the KMDA, the certificate is not a credential certificate. It is not clear as to under what circumstances, the Chief Engineer had issued the certificate dated 6th September, 2021. Be that as it may, the certificate only states whatever is the work done by the appellants/writ petitioners upto the date of issuance of certificate and nothing more.

4. As rightly contended by the respondent authorities, the learned advocate appearing for the respondent authorities, the certificate is not a completion certificate nor a credential certificate. Therefore, the appellants/writ petitioners cannot interpret or use the certificate as a credential certificate or a completion certificate.
5. If this issue is clarified, then nothing more remains to be adjudicated in this appeal. The certificate dated 6th September, 2021 not being a completion certificate, nothing flows out of the certificate, even if it is cancelled/revoked. In fact, the learned Single Bench had taken note of this fact in paragraphs 47 and 48 of the impugned judgment has rightly protected the interest of the appellants/petitioners by stating that the already

accrued rights in favour of the appellants/writ petitioners in respect of the tenders in which the writ petitioners have already produced the certificate, cannot be retrospectively curtailed. Further, it was made clear that the certificate shall be treated to be valid for whatever it is worth, in respect of tenders, where the appellants/writ petitioners have already participated by production of the said certificate.

6. The learned advocate appearing for the appellants would contend that based on the communication sent by KMDA, the Cuttack Municipality has taken action against the appellants and the appellants are also being barred from participating in the tender. In so far as the action initiated by the Cuttack Municipality is concerned, it is up to the appellants/writ petitioners to work out their remedies in accordance with law before the appropriate forum and all that can be observed in this appeal, is that there is no allegation of fraud either against the appellants or against the Chief Engineer, who had issued the certificate and we further clarify that the certificate, which has since been cancelled, is not a completion certificate and the appellants cannot interpret the certificate as a completion certification.

7. The observations made by the learned Single Bench in paragraphs 47 and 48 of the impugned judgment stand affirmed and the appeal stands disposed of accordingly.
8. No costs.
9. Urgent photostat certified copy of this order, if applied for, be furnished to the parties expeditiously upon compliance of all legal formalities.

(T.S. SIVAGNANAM)
CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA, J.)