

01.02.2023
Ct. 5
D/L 12
ab

WPA 23218 of 2022

Sk. Najrul Islam
-Vs-
State of West Bengal & Ors.

Mr. Sk. Rejaul Alam

... for the petitioner

Mr. Santanu Kr. Mitra,
Mr. Subhabrata Das

... for the State

The petitioner is aggrieved by a rejection of the petitioner's tender by the Executive Officer, Nandigram-1 Panchayat Samity/respondent no. 5 on the ground of the petitioner's Power of Attorney not being valid. The reason included a Resolution of the Tender Committee dated 20th September, 2022. The rejection was communicated to the petitioner on 23rd September, 2022.

The documents placed before the Court show that the petitioner is presently serving a jail term in the Sub-correctional Home at Haldia. By the order dated 25th March, 2022, the ACJM, Haldia granted permission to the advocate of the petitioner to make an application before the Controller of the Sub-Correctional Home for the petitioner to execute a power of attorney in favour of

his brother one Sk. Nijamul Islam. The reason given in the order is to facilitate the smooth running of the petitioner's business named as 'Popular Enterprise'. Clause 9 of the Power of Attorney executed on 11th April, 2022 permits the power of attorney holder being the petitioner's brother to issue and submit tenders in respect of the business of the petitioner.

The affidavit-in-opposition of Tendering Authority encloses the Resolution taken by the Tender Committee on 20th September, 2022 giving reasons for the rejection of the petitioner's technical bid. The reason is that the credentials of the other bidders were found to be more suitable for the work namely construction of 2-storied Sub- health Centre at Nandigram. The more important document is of a work order issued by the Tendering Authority on 26th September, 2022 in favour of the private respondent indicating time limit of 150 days. The 150 days commenced from 26th September, 2022 and is due to be complete on 26th February, 2023.

It is also the case of learned counsel appearing for the Tendering Authority that the order of the ACJM was not communicated to the authority concerned before issuance of the work order in favour of the private respondent.

The above facts, as revealed from the material before the Court, tilts the balance of convenience against the petitioner and in favour of the Tendering

Authority. This Court cannot go into the question of whether the work order has actually been awarded in favour of the private respondent when the document in the affidavit-in-opposition indicates specific date namely 26th September, 2022 and more important the period for which the work was awarded i.e. 150 days which means that the period for the work will come to an end this month, i.e. 26th/the end of February, 2023. The main argument of the petitioner rests on the order passed by the ACJM, Haldia permitting the petitioner to execute the power of attorney in favour of his brother. Admittedly, this was not communicated to the Tendering Authority at the relevant point of time. Further, the reasons given by the Tender Committee in its resolution dated 20th September, 2022 cannot be called into question.

The combination of the facts dissuades this Court to pass any order in favour of the petitioner.

WPA 23218 of 2022 is accordingly dismissed without any order as to costs.

(**Moushumi Bhattacharya, J.**)