

D/L. 8.
November 16, 2023.
MNS.

WPA No. 23752 of 2023

M/s. Sukanta Construction and another
Vs.
The State of West Bengal and others

Mr. Anindya Bose,
Mr. Santanu Maji

... for the petitioners.

Mr. Anirban Ray,
Sk. Md. Galib,
Mr. Safik Dewan

...for the State.

1. Supplementary affidavit filed in court today be kept on record.
2. Learned counsel for the petitioners contends that initially the respondent authorities adopted a policy of disbursing additional amounts to all contractors, in lieu of enhanced rates, as compensation.
3. However, subsequently upon the petitioner moving this court, compensation was directed to be given at which juncture the petitioners discovered that the original price of the work done by the petitioners was also not paid to the petitioners, for which the present writ petition has been preferred.

4. It is pointed out by learned counsel for the petitioners that by an order dated August 22, 2023, the respondent authorities proceeded on the premise that the Detailed Project Report (DPR) authored by the Executive Engineer of the respondents themselves is used internally within the department and is not part of the agreement, thereby precluding the vital piece of evidence as to whether the costs were paid to the petitioners.
5. Learned counsel for the respondents takes a preliminary objection of maintainability as the reliefs pertain to a money claim.
6. That part, it is argued that the issues raised by the petitioners involve disputed questions of fact which ought not to be decided by way of a writ petition. It is also contended that the payments for original work done by the petitioners are hidden in the documentation between the parties.
7. Be that as it may, it transpires from the impugned order dated August 22, 2023 passed by the respondents that the respondents did not consider the points now raised by them or that the amounts were hidden in any previous document, but

proceeded merely on the premise that the DPR is used internally within the department. It also failed to consider that the DPR, even if used internally, has weight as a circumstantial piece of evidence to ascertain the work actually done by the petitioners and whether actual payments have been made on such score.

8. Be that as it may, the respondents have a point in arguing that detailed questions of facts regarding evidence ought not to be gone into by the writ court.
9. In view of the reasons given above, it would only be appropriate if the respondents are directed to revisit the issues and upon hearing both sides, as well as looking into all the documents in their proper perspective, come to a detailed and reasoned conclusion as to whether any further amount is due to the petitioners for the original work done by the petitioners.
10. Accordingly, WPA No. 23752 of 2023 is disposed of by setting aside the order dated August 22, 2023 annexed at page 69 of the writ petition and directing the respondents to give a fresh opportunity of hearing to the

petitioners and upon considering the arguments of the petitioners and assessing all relevant documents in that regard, including the DPR relied on by the petitioners, come to a fresh reasoned conclusion as to what amounts, if any at all, are due to the petitioners for the work originally done by the petitioners.

11. It is made clear that nothing in this order shall preclude the respondent authorities from disbursing the amounts due to the petitioners afresh on account of the compensation for enhanced rates. If such disbursement is made to the petitioners, the petitioners shall receive the same without prejudice to their rights and contentions on the issues involved in the rehearing as directed by this Court.

12. It is expected that the rehearing pursuant to this order shall be concluded at the earliest, positively within two months from this date.

13. There will be no order as to costs.

14. 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.)