

17
12.10.2023
d.p.

**In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

W.P.A 24472 of 2023

**Hasen Ali
-versus
The State of West Bengal & Ors.**

**Ms. Chatali Bhattacharya,
Mr. Swarvanu Saha.
...For the Petitioner.**

**Mr. Amal Kumar Sen, Ld. AGP
Mr. Lal Mohan Basu.
...For the State.**

The petitioner is aggrieved by the notice inviting e-tender published by the Pradhan of the Mahishnathani Gram Panchayat. He claims to be a member of the said Gram Panchayat.

According to the petitioner, till a budget is fixed from where the payment of the work performed in accordance with the notice inviting e-tender will be made, the tender notice ought not to have been floated.

It has further been contended that the Pradhan does not have the jurisdiction to issue the said notice inviting e-tender till the Artho O Prikolpana Upa Samity delegates the power to the Pradhan.

There are several illegalities which the petitioner raises with regard to the tender notices.

An objection was filed before the Pradhan of the Gram Panchayat in September 2023. The same is yet to be considered. A copy of the said representation was forwarded to the Block Development Officer.

Learned advocate appearing for the State respondents raises issue with regard to the locus standi of the petitioner to move the instant writ petition.

It has been submitted that the petitioner does not have the locus to challenge the notice floated by the Pradhan of the Gram Panchayat. The petitioner has not disclosed as to how he is aggrieved by the said notice.

It has been submitted that it is not the look out of the petitioner as to where from the fund will be available. The projects in question are in the better interest of the general public and ought not to be stalled.

I have heard and considered the submissions made on behalf of both the parties.

The tender in question has been floated in the end of September 2023. Financial bid is yet to be opened. Work order will be issued thereafter.

I have perused the objection filed by the petitioner. The same does not appear to be a comprehensive one.

The objection raised by the State respondents regarding the locus of the petitioner in moving the writ petition is not accepted in view of the fact that the very jurisdiction of the person who issued the notice inviting tender has been challenged. If the person issuing the

notice inviting tender does not have the jurisdiction to do so, then the entire action taken subsequent thereto will become void. Defect, if any, in the process of inviting tender may be rectified at the very initial stage.

It will be open for the petitioner to raise appropriate objection by 13.10.2023 highlighting the illegalities in the tender process before the Block Development Officer, Old Malda Development Block who shall consider the same after giving a reasonable opportunity of hearing to the representative of the Panchayat and if required to the Pradhan of the Panchayat prior to issuance of the work order. A reasoned order shall be passed and communicated thereafter.

If it appears to the Block Development Officer that the work order has been issued not in accordance with the WB Panchayat Act, 1973 and the relevant rules, then necessary remedial steps shall be taken in the matter.

The BDO shall consider the matter at the earliest but positively prior to conclusion/ finalization of the tender process and issuance of the work order.

The writ petition stands disposed of.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Amrita Sinha, J.)