

07.02.2023
Court No. 19
Item No.10
CP

WPA No. 25804 of 2022

Abdul Majid Ansary
Vs.
The State of West Bengal & Ors.

Mr. Falguni Bandyopadhyay
Ms. Riya Ballav

....for the petitioner.

Mr. Jahar Lal De
Mr. Shamim ul Bari
Mr. Ratul Das

....for the State.

The tender process was cancelled by the authority on coming to a conclusion that the petitioner was not physically present in the station when the bid documents were purchased and dropped. The Block Development Officer, Purulia II Development Block has filed a report.

The authority had come to the conclusion that upto June 20, 2022, the petitioner was out of station. An enquiry was conducted pursuant to a complain lodged by one Chitta Mahato and some 25 local contractors of the gram panchayat who were also participants in the said tendering process. Their complaint was that the petitioner was out of station for more than two weeks during the period when the tender notice was floated, i.e. on June 7, 2022 till June 20, 2022 and as such, he could not have

purchased the papers and dropped the same on the same day.

The Block Development Officer enquired into the matter locally and found the allegations to be somewhat true as the petitioner was out of station even on the date of enquiry, i.e. on June 21, 2022. The report of a member of the gram panchayat was also relied upon by the Block Development Officer.

That authority was of the view that the tender documents had been purchased and dropped by someone else on behalf of the petitioner which gave rise to a suspicion that the signature on the tender documents may not be of the petitioner. At the time of enquiry no one came forward in favour of the petitioner. No authorization letter of the petitioner had been produced which would show that the petitioner had authorized an agent to purchase the tender documents and drop the same on his behalf.

The authority having come to such conclusion gave his opinion that the tender should be cancelled. The authority found that the petitioner was in Tamil Nadu for treatment at the relevant point of time. The Artha-O-Parikalpana Upa Samiti took the decision to cancel the tender.

The fact of cancellation of the tender was also informed to the petitioner by registered post. No new tender has yet been notified in respect of the said

work. The petitioner was also asked to take back his earnest money.

Under such circumstances, the writ court cannot go beyond the report and enter into a trial on evidence with regard to the fact whether the petitioner was physically present in the station during the entire tender process.

The pradhan, Golamara Gram Panchayat had asked one of the members of the gram panchayat to cause an enquiry upon receipt of complains with regard to the petitioner's absence. The said member, Rabila Bibi, made an enquiry and submitted a hand written note before the pradhan, *inter alia*, stating that the petitioner was away for treatment in Tamil Nadu even on June 22, 2022.

The tender document categorically provides that the accepting authority reserved the right to reject a tender without assigning any reasons and the pradhan may not be bound to accept the lowest bidder or any other tenderer who had participated in the tender.

Under such circumstances, no order can be passed. The petitioner is at liberty to withdraw the earnest money. The authority is at liberty to call a fresh tender as public projects cannot be stalled.

The tendering authorities are experts. They are entitled to decide the terms and conditions of the

tender. They are entitled to consider and verify the correctness of the statements made by the participants upon verification of the records.

The Artha-O-Parikalpana Upa Samiti upon holding a local enquiry through a member found that the allegation of Chitto Mahato and 25 other contractors, that the petitioner was out of station for the entire period to be correct. The enquiry recorded that the petitioner was undergoing treatment in Tamil Nadu even on June 22, 2022, when the enquiry was made.

These factual aspects cannot be further investigated. The authorities are at liberty to proceed with the tender. The earnest money already deposited by the petitioner shall be refunded.

The petitioner will be at liberty to participate in the tender.

Accordingly, the writ petition is disposed of.

However, there will be no order as to costs.

All the parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)