

Item No. 12
16.02.2023
Court. No. 19
GB

W.P.A. 25856 of 2022

Arun Karan
VS
The State of West Bengal & Ors.

Mr. Ritwik Pattanayak

...for the Petitioner.

*Mr. Samrat Sen,
Ms. Manali Ali*

...for the State.

Mr. Rabindranath Mahato

...for the Respondent No.8.

*Mr. Lalratan Mondal,
Mr. Dilip Kr. Sadhu*

...for the Respondent Nos.11 to 15.

The police authorities have produced the Pradhan of Nepura gram panchayat. The Pradhan is present before the Court. The efforts of the police authorities are appreciated.

Mr. Rabindranath Mahata is representing the Pradhan.

Reports filed by the State respondents are taken on record.

From the report of the Block Development Officer, Binpur-I Development Block filed in Court today, it appears that the disputed tenders in respect of which works were issued in favour of the respondent nos.11 to 15 had either been completed or was near completion.

Thus, at this stage, the situation cannot be reversed.

The allegation of the petitioner is highhandedness of the panchayat authorities in cancelling the date of opening of the technical bid and fixing the same on November 15, 2022 which was a holiday under List-II, being the birthday of Birsa

Munda. The holiday list was published on November 26, 2021. Thus, the panchayat authorities were well-aware that birthday of Birsa Munda was on November 15, 2022 which was a holiday as per the direction of the State Government. It is also an admitted position that the Nirman Sahayak was not present at the time of opening of the technical bid although there is a necessity that a person having technical know how should be present when such bid is opened.

There are irregularities in the manner in which the e-tender was conducted. The notice of postponement was hung in the notice board of the panchayat office and the participants were not informed.

However, this order shall not have any impact on the work already completed by the respondent nos.11 to 15 and the respondent nos.11 to 15 are not responsible for such executive fiat.

The report of the Commissioner of Panchayat, West Bengal has been taken into consideration. According to the Commissioner, as the notifications with regard to holding of e-tenders are silent as to whether such e-tenders could be opened on holidays, the authority could not come to a clear decision as to whether the gram panchayat acted illegally by opening the tender on November 15, 2022.

The petitioner was a participant who had filed his bids. He did not have any knowledge about the postponement of the date of opening of the e-tender. It is contended that had the petitioner been present at the time, defects could have been rectified as per procedure and he

would have also known about the reasons for rejection of his bids. According to him, the right of a participant to be present at the technical bidding round, was denied by the authority. The other allegation is that a technically trained person, namely, the Nirman Sahayak should have been present and his absence during such process was grossly irregular.

Mr. Mahato, learned advocate submits that a show cause notice was issued to the petitioner by the Pradhan dated September 29, 2022, asking the petitioner to show cause as to why the work allotted to the said petitioner pursuant to an earlier tender process, had not commenced. The petitioner did not reply and the authority adopted a resolution not to allot any work to the petitioner.

The petitioner denies such allegation and hands over a copy of the reply allegedly submitted before the Secretary, Nepura gram panchayat dated October 12, 2022. These issues are not within the scope of the writ petition.

In the writ petition, the petitioner has challenged the irregularity in the procedure with regard to two tender notices being NIT nos.- JGM/BIN-I/Nepura/e-NIT-03(2022-2023) and JGM/BIN-I/Nepura/e-NIT-04(2022-2023) and the allotment of work orders to the respondent nos.11 to 15. The allegations are that the authority acted unfairly, with mala fide intention and changed the dates for opening the technical bid, without proper notification and public announcement only to deprive certain persons

including the petitioner. The other allegation is that power has been abused by the authority.

Under such circumstances, the writ petition is disposed of as the works have already been completed or are near completion. However, direction is issued upon the Commissioner of Panchayats, West Bengal to make an enquiry with regard to the procedure followed by the Pradhan and the other members of the gram panchayat in this regard in respect of the e-tenders which were conducted in the year 2022 as there are several allegations against the gram panchayat. At the time of enquiry the Pradhan, the Nirman Sahayak, the petitioner, other participants and any other interested parties must be heard and a decision shall be arrived at. Such decision shall be communicated. The authority is at liberty to take all such steps which are permissible under the law, if the authority comes to a conclusion that the panchayat authorities and/or the Pradhan and the members of the gram panchayat, had not acted in accordance with law and had abused their powers.

The entire exercise shall be completed within a period of two months from the date of communication of this order.

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.)