

AD-09
Ct No.09
26.06.2023
TN

WPA No. 28959 of 2022

Boalia Fishermans Co-operative Society Ltd.
Vs.
The State of West Bengal and others

Mr. Kamalesh Bhattacharya,
Mr. Subir Hazra

.... for the petitioner

Mr. T.M. Siddique,
Mr. Suddhadev Adak

.... for the State

Learned counsel appearing for the respondent-authorities hands over a copy of a communication dated December 14, 2022 to the Secretary, Jai Maa Manasa Fish Production Group, contending that possession has already been handed over to the successful bidder in the impugned tender.

It is, thus, argued that the writ petition has become infructuous.

Learned counsel for the petitioner reiterates that the petitioner has made specific allegation in its representations to the respondent-authorities, clearly alleging that the impugned tender was vitiated on several scores.

First, it has been alleged that the successful bidder is headed by the wife of the Karmadhakshya, who was in charge of the tender process itself.

Apart from such question of bias, two minors are members of the Co-operative Society-in-question, which is patently violative of the terms of the Notice Inviting Tender, thereby vitiating the tender process as well as the subsequent contract, if any, awarded in pursuance thereof.

Thirdly, it is submitted that the purported lease taken by the successful bidder-Society, which was the premise of alleged grant of the successful bid in favour of the said bidder, was merely executed on a notarized paper which is an invalid transfer in the eye of law, in the absence of registration.

Learned counsel further places reliance on the annexure at page-42 of the writ petition, which is a purported communication dated September 21, 2022 authored by the successful bidder itself, expressing its inability to undertake the work in terms of the tender-in-question.

Although the writ petitioner seeks an intervention by this court, it is submitted by learned counsel for the petitioner, on instruction, that the writ petitioner is confident that in the event its representations in that regard are considered by the respondent-authorities, the tender process itself and all consequential action shall be set aside.

In view of such limited prayer of the petitioner, instead of keeping the writ petition pending, WPA No. 28959 of 2022 is disposed of in terms of the prayer of the petitioner by directing respondent no. 5 to consider the representations annexed to the present writ petition, as well as the supplementary affidavit, which have been issued by the petitioner to the said respondent, and upon giving an opportunity of hearing to the petitioner, if necessary, to decide on the same as expeditiously as possible, positively within three weeks from this date.

Upon such consideration, the respondent no. 5 shall intimate its outcome to the petitioner. In the event it is found that the enquiry undertaken by the respondent no. 5 in that regard reveals that the allegations made by the petitioner are true and the successful bidder is not entitled in law to get the contract and/or that the tender process has been vitiated in granting such tender to the successful bidder, the respondent-authorities shall immediately take steps to reverse the action taken in terms of the said tender and to cancel the same and issue a fresh tender with regard to the work contemplated in the impugned tender.

The entire process, it is expected, shall be concluded within two months from this date.

There will be no order as to costs.

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.)