

09-08-2023
Court No.2
Sh/34.

**In The High Court At Calcutta
Jalpaiguri Circuit Bench**

W.P.A. 1585 of 2023

**Conveyor & Ropeway Services Pvt. Ltd. & Anr.
-Vs-
West Bengal Forest Development Corpn. Ltd. & Ors.**

Mr. Biswaroop Bhattacharyya,
Mr. Debasish De,
Mr. Debasish Mukhopadhyay,
Mr. Ajay Singhania.

For the Petitioners.

Mr. Gobinda Saha.

For the respondents.

The petitioners pray for cancelling/withdrawing the impugned tender floated by the authority on 7th July, 2023 and consideration of their representations submitted on 27th January, 2023, 5th July, 2023 and 10th July, 2023 respectively.

Being the highest bidder in the tender notice floated by the West Bengal Forest Development Corporation Limited inviting offers for renovation and operation of the Darjeeling Rangeet Valley Passenger Ropeway, the petitioners were selected and an agreement executed by and between the Corporation and the petitioners on 29th March, 1996. The petitioners commenced operation of the Ropeway from March, 1998. The agreement was valid for a period of 20 years from the date of its execution and the authority proceeded to terminate the agreement with effect from 28th March, 2016, by a letter issued to the petitioners on 22nd March, 2016. Challenging the said letter, the petitioners approached this Court in a writ petition being WP 6052(W) of 2016. By an order

passed on 15th April, 2016, a co-ordinate bench of this Court set aside the letter in question and directed the Corporation to proceed to treat the agreement as valid till 20th March, 2018. A fresh agreement was entered into by and between the Corporation and the petitioners on 19th December, 2018 for a period of five years.

It is submitted on behalf of the petitioners that the petitioners were unable to operate the Ropeway for more than nine months due Covid-19 pandemic as well as local political disturbances and resumed operation only on 31st December, 2020. The petitioners submitted several representations before the concerned authority seeking extension of the lease period for a period of at least two years during which they were unable to operate. The representations are yet to be considered. In the meantime, the authority has floated an Expression of Interest for upgradation, operation, maintenance and management of the Ropeway and the proposals are scheduled to be opened on 16th August, 2023. The petitioners seek consideration of their representations by the authority and an order of stay of the Expression of Interest till such time.

Learned counsel for the respondents submits that in terms of Clause 18 of the agreement executed on 19th December, 2018, the Managing Director of the Corporation has the absolute power to give relaxation of time to the collaborator for the gap period that may occur due to any act of God or agitation.

Upon consideration of the submission made on behalf of the parties and material on record, this Court is inclined to hold that since the representation submitted by the petitioners on 27th January, 2021, 19th January, 2023 and 5th July, 2023 are pending consideration by the authority, the concerned authority be directed to deal with the representations at the earliest.

In view of the above, the writ petition is disposed of directing the 2nd respondent to consider and dispose of the representations submitted by the petitioners dated 27th January, 2023, 19th January, 2023 and 5th July, 2023 within three weeks from the date of communication of this order upon affording reasonable opportunity of hearing to all the stake holders including the petitioners, in accordance with law.

The decision taken by the authority shall be communicated to the petitioners within a week thereof.

Pending disposal of the representations the Expression of Interest floated by the authority on 7th July, 2023 be stayed.

With the above observation and direction the writ petition being WPA 1585 of 2023 is disposed of.

There shall be no order as to costs.

Since no affidavits have been called for, the allegation contained in the writ petition shall be deemed not to have been admitted.

Urgent certified website copy of this order, if applied for, be supplied to the parties expeditiously on compliance of all requisite formalities.

(Suvra Ghosh, J.)