

Court No. 2

16.08.2023

(JPD 4)

(S. Banerjee)

Calcutta High Court
In the Circuit Bench at Jalpairuri
Appellate Side

W. P. No. 1867 of 2023

Firdose Alam Ansari
Vs.
The State of West Bengal & Ors.

Mr. Srijib Chakraborty
Mr. Arindam Das

... for the petitioner

Mr. Hirak Barman
Mr. Momenur Rahman

... for the State

Mr. Kamalesh Bhattacharya
Mr. Aninda Bhattacharya
Mr. Debajit Kundu

... for the respondent nos. 2 to 4

Mr. Bikash Ranjan Bhattacharya, Sr. Advocate
Mr. Rohit Agarwal
Mr. Abhishek Singh

... for the respondent no. 5

A tender process was initiated in September, 2022 for handling materials at Rajganj RIDF Godown. The petitioner herein is the highest bidder and was issued one letter of appointment and pursuant thereto they deposited a sum of Rs. 6.50 lacs with the Warehousing Corporation as was directed. Thereafter the issuance of work order process was disturbed because of filing of several writ applications by one unsuccessful bidder. The unsuccessful bidder, being respondent no. 5, alleged against the petitioner, who is the highest

bidder, that the petitioner did not have some documents and, therefore, the petitioner herein, who is the highest bidder, should be declared as unsuccessful. Thereafter the meeting of the Tender committee was held on 21.12.2022 wherefrom it appears that the allegations were:

i) Annexure VII to the tender papers was not in letterhead,

ii) proof of EMD not submitted and

iii) Annexure IX not in prescribed format. In this regard the tender committee held that complaint not justified.

Thereafter a writ application was filed by the unsuccessful bidder to stall the tender awarding. From a report, which has been annexed to the writ application as Annexure P-12, some facts emerged which are required to be set out:

“Before issuance of work order in favour of Firdose Alam Ansari, Sardapara Handling Contractors Pvt. Ltd., one of the technically qualified bidders, complained that Firdose Alam Ansari did not upload some essential documents which were required to be qualified in the technical bid of the said e-tender.

The Tender Committee had thoroughly checked the documents uploaded by Firdose Alam Ansari and

found that Sri Alam had uploaded all requisite documents as per tender document which are necessary to be qualified technically. The Tender Committee came to the conclusion that the allegation raised against Firdose Ansari had no jurisdiction.”

“The Tender Evaluation Committee of WBSWC took personal hearing of Sardapara Handling Contractors Pvt. Ltd. and other bidders on 09/03/2023 in terms of the order of Hon’ble Justice Amrita Sinha dated 01/03/2023. However, the Tender Evaluation Committee was not in a position to pass any reasoned order/decision due to pendency of the case before the Division Bench.

It is pertinent to mention here that Sardapara Handling Contractors Pvt. Ltd. preferred an application before the said Division Bench for addition of party. But it is found that in the instant writ petition, the petitioner suppressed the pendency of the self same matter before the Hon’ble Division Bench mentioned herein before.

Since the matter has not yet been settled, the existing H&T Contractor at Rajganj RIDF godown is taking the advantage of the pendency of the above mentioned court cases and continuing the function of H&T Contractor till date. The Corporation has not yet concluded the tender process which was floated in the month of September-2022. As there is no restraining order passed by any court against the Corporation, WBSWC has

taken steps to issue work order in favour of L-I bidder, i.e. Firdose Alam Ansari with respect to Rajganj RIDF godown.

The existing writ petition was heard on 09/06/2023 before the Hon'ble Justice Jay Sengupta at the Hon'ble Circuit Bench, Jalpaiguri and as directed by the court the matter is fixed for hearing on 14/06/2023."

From the report it appears that the tender committee did not take any step in awarding the contract as they were waiting for the outcome of the writ application filed by Sardapara Handling Contractors (P) Ltd. who was an unsuccessful bidder.

Be that what it may, the successful bidder cannot wait and the tender process cannot be kept pending by not issuing the work-order to the existing H&T Contractor at Rajganj RIDF as for removal of H&T Contractor at RIDF in respect of earlier contract the present contract was floated, but the last contractor who was given the job could not be restrained by the Warehousing Corporation. However, this point is not material for the present purpose as the said contractor, who is working as ad hoc contractor, did not participate in the present tender process where the petitioner became the highest bidder.

Considering the submissions of the parties including the respondent no. 5, who prayed for hearing of this matter along with his writ application being WPA 1227 of 2023, I hold that whatever be the writ application filed by the respondent no. 5, this matter cannot be kept pending as from the tender committee meeting it is found that the allegations of the respondent no. 5 was taken note of and it was declared that none of these complaints are justified.

Therefore, I direct the respondent authority, being the respondent nos. 2 and 3, to issue work order immediately by three days from date and to ensure that the petitioner can start working there on issuance of the work order according to the conditions of the work order. By virtue of this order, the letter of the West Bengal Warehousing Corporation (the respondent no. 3 herein) dated 09.06.2023 vide Annexure P-10 at page 138 is set aside and quashed.

The writ application is, therefore, allowed.

(Abhijit Gangopadhyay, J.)