

November 28, 2023
Sl. No. 63
Court No.2
srm

**In the Calcutta High Court
Circuit Bench at Jalpaiguri
Appellate Side**

WPA 2525 of 2023

Amjad Hossain
vs.
The State of West Bengal and others

Mr. Debayan Goswami

... for the petitioner

Mr. Hirak Barman,
Mr. Nabankur Paul

... for the State

The petitioner participated in a tender floated by the PWD, Cooch Behar Division. It is contended that although the final bill had been acknowledged by the respondents, the payment had not been released. The petitioner relies on a communication by the Executive Engineer, PWD, Cooch Behar Division, to the Superintending Engineer, PWD, North Bengal Construction Circle No.1, which indicates the status of the outstanding payments for the work completed by the petitioner.

According to the petitioner, when the authority empowered to supervise the progress of the work acknowledged that the petitioner had not been paid the amount, no further confusion remains with regard to the eligibility of the petitioner to receive such payment. The petitioner

prays for a mandamus upon the authority to release the payment, in accordance with bills submitted.

From the perusal of the documents in this writ petition, it appears that the concerned authority is not inclined to release the payment due to the petitioner, as the said work was completed beyond the stipulated period. No extension was granted to the petitioner and the work, if at all, was completed belatedly. There is no administrative order, condoning such delay and regularizing the work.

Under such circumstances, unless there is an administrative approval by allowing extension to the petitioner or *post facto* extension to the petitioner as the concerned authority deems fit, this Court is not in a position to pass a mandatory direction for payment.

The petitioner is at liberty to approach the respondent No.2, namely, the Managing Director, West Bengal Medical Services Corporation Limited, for necessary consideration of his case, in accordance with law. The respondent No.2 shall decide the application of the petitioner upon considering whether a *post facto* approval can be given with regard to the belated completion of the

work and whether payment can be released in accordance with law. If the petitioner is not found responsible for such delay, a sympathetic consideration would be appropriate.

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

The writ petition is, thus, disposed of.

There shall be no order as to costs.

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

(Shampa Sarkar, J.)