

S/L 8
15.01.2024
Court No.24
SD

WPA 474 of 2024

Rajab Mondal
Vs.
The State of West Bengal & Ors.

Mr. Pratip Kumar Chatterjee

...for the Petitioner.

Mr. Lalit Mohan Mahata

Mr. Ziaul Haque

...for the State.

Mr. Partha Sarathi Bhattacharya, Sr. Adv.

Mr. Lutful Haque

...for the Respondent No.6.

The notice inviting e-auction dated December 26, 2023 issued by the Pradhan of the Gram Panchayat is impugned in the instant writ petition.

The petitioner is particularly aggrieved by the line in the e-auction notice which gives preference to the applicants as per the West Bengal Land and Land Reforms Manual, 1991. The second ground of challenge is that the earnest money deposit as indicated in the impugned e-auction notice is lesser than the earnest money deposit in respect of the earlier term.

It has been submitted that in the present e-auction notice, the earnest money deposit is fixed at Rs.42,30,000/- only; whereas in the deposit for the previous term of three years is Rs.51,75,000/- only. It has been submitted that the earnest money deposit has been kept low in the interest of a group of individuals.

Further challenge is that though the auction will be held online even then there is a direction for submission of all documents in connection with the e-auction in the office of the Pradhan. It has been submitted that as the entire process is held online, accordingly, there is no requirement of submitting any further document in the office of the Pradhan.

The petitioner also complains that the bank guarantee and the bank draft in respect of the earnest money deposit has been directed to be drawn in favour of the Pradhan of the Gram Panchayat. The same ought to have been in favour of the Panchayat itself and not in favour of the Pradhan individually.

Prayer has been made for setting aside the impugned e-auction notice.

Learned senior counsel representing the Pradhan submits that according to the Bengal Ferries Act, 1885, there is no restriction for giving preference in respect of a particular group of individuals. The preference has been sought to be given in accordance with the West Bengal Land and Land Reforms Manual, 1991. As there is no bar in the Manual for giving this preference, accordingly, the same has been incorporated in the notice inviting e-auction.

It has been submitted that as the petitioner did not participate in the tender process accordingly, the petitioner cannot be held to be an aggrieved party and, as such, the writ

petition ought not to be maintainable at the instance of the petitioner.

Learned advocate representing the petitioner as well as the learned advocate for the State respondents relies upon the order passed by a coordinate Bench of this Court on March 15, 2023 in *WPA 5940 of 2023 (Matara Heridity Patni Ferry Service Co-operative Society Ltd. & Anr. vs. the State of West Bengal & ors.)* wherein the Court clearly held that only when the District Land and Land Reforms Officer settles the ferry ghat in terms of the Manual, the question of concession would arise. In the aforesaid order, the Court took into consideration the judgment passed by a coordinate Bench of this Court in *Jorgachi Lohdha Ferighat Yatri O Nou Paribahan Samabay Samity Limited and anr. Vs. State of West Bengal and Ors.* reported in *2023 SCC Online Cal 122* and also the judgment delivered in the matter of *Kaljani Group Samity & Anr. Vs. State of West Bengal & Ors.* reported in *2005 SCC Online Cal 277* and *Jiaganj Azimganj Boatman Ferry Ghat Cooperative Transport Society Ltd. & Ors. vs. State of West Bengal & Ors.* reported in *WPLRT 101 of 2014*.

The Court also took note of the judgment in the matter of *Matara Heridity Patni Ferry Service Co-operative Society Ltd. & Anr. vs. the State of West Bengal & ors.* reported in *AIR Online 2022 Cal 474*.

The Court after perusal of all the aforesaid judgments clearly held that the provisions of the West Bengal Land and

Land Reforms Manual, 1991 will not be applicable in respect of the settlement of ferries by the Panchayat.

In view of the above, the preference as mentioned in the impugned e-auction notice issued by the Pradhan of the Gram Panchayat cannot be held to be a valid one.

The very purpose of holding public auction is to maintain transparency and to generate revenue for the authority settling the ferry ghat. In the earlier occasion, the earnest money deposit was Rs.17,25,000/- per year amounting to Rs.51,75,000/- for three years. In the present notice inviting e-auction, the earnest money deposit for three years is only Rs.42,30,000/- only. The figure ought not to have decreased. The same ought to have been increased by 10% after every term of three years. In the instant case, instead of increasing the earnest money deposit, the same has been decreased for the reason best known to the Pradhan.

The further criteria that the deposit has to be made in favour of the Pradhan, also does not appear to be very proper. The deposit ought to have been in favour of the Gram Panchayat or in the common pool of the Panchayat, but the same ought not to be in favour of any particular Pradhan.

The Court fails to appreciate the requirement of submitting hard copy of the relevant documents in the office of the Pradhan. The authority when inviting applications online ought to consider the documents submitted online

instead of insisting upon submission of hard copy of the documents. Only in the case of any discrepancy, hard copies may be called for. Otherwise, the Panchayat authority ought to restrict and should consider the soft copy of the documents for the purpose of settling the bids.

From the above, it appears that there are quite a few errors on the part of the Pradhan in publishing the notice inviting e-auction. The same, accordingly, is set aside.

The Pradhan is directed to take steps in terms of the law as laid down by the Court in the matter of *Matara Heridity Patni Ferry Service Co-operative Society Ltd. & Anr. (supra)* and the observations made hereinabove.

Steps shall be taken in the matter at the earliest so that ferry service runs smoothly.

The writ petition stands disposed of.

Urgent certified photocopy of this order, if applied for, be given to the parties, upon compliance of all formalities, on priority basis.

(Amrita Sinha, J.)