

07.02.2024
Item no.5.
Court No.6.
AB

**M.A.T. 147 of 2024
With
IA CAN 1 of 2024**

**Bishwanath Laya
Vs
The State of West Bengal & Others**

Mr. Soumik Ganguly,
Mr. Dilip Kumar Sadhufor the Appellant.

Mr. Samrat Sen, Sr. Adv,
Mr. Deepnath Roy Choudhury.....for the State.

Affidavit of Service filed in Court today, be kept
with the records.

A judgment and order dated January 15, 2024,
whereby the appellant's writ petition being WPA 761 of
2024 was dismissed by a learned Judge of this Court,
is the subject matter of challenge in this appeal, at the
instance of the writ petitioner.

The writ petitioner participated in a tender
floated on December 1, 2023, by the Purulia Zilla
Parishad. It was an e-tender. The work is for re-
excavation of a Bandh at Mishirdih, Purulia. The
tender cost is Rs.40 Lacs.

The bid of the writ petitioner was cancelled as
according to the Zilla Parishad, the credentials
submitted by the writ petitioner did not satisfy or
match the credentials submitted in the e-tender
notice.

Being aggrieved, the writ petitioner approached the learned Single Judge. The learned Judge dismissed the writ petition with the following observations:

“The petitioner relies upon certain completion certificates issued in his favour and submits that the said certificates were issued in respect of similar types of work performed by the petitioner.

The learned senior advocate representing the State respondents clearly submits that the credentials of the petitioner did not match the credentials as required to be submitted in terms of the notice inviting e-tender.

On a perusal of the completion certificates, the Court is not convinced that the said certificates relates to similar types of work. The Court is, prima facie, not satisfied with the credentials submitted by the petitioner in relation to the similar type of work performed by him.

The Zilla Parishad considered the certificates relied upon by the petitioner and observed that the same does not match the credentials of the notice. It is open for the tender inviting authority to form an opinion on the certificates relied upon by a bidder. The Court does not find any error or material irregularity on the part of the Zilla Parishad.”

Being aggrieved, the writ petitioner is before us by way of this appeal.

At the outset, learned Advocate for the State-respondents points out that a huge number of documents have been annexed to the stay petition, which apparently were not part of the writ petition before the learned Single Judge.

Learned Advocate for the appellant says that those documents will be necessary to be referred to, to demonstrate that the stand taken by the Zilla Parishad is factually incorrect.

Be that as it may, since the relevant documents that the appellant now desires to rely upon, were not before the learned Single Judge, we are not inclined to consider such documents.

We find no apparent infirmity in the order under appeal. The learned Judge accepted the contention of the State-respondents that the writ petitioner could not disclose sufficient documents showing that his credentials satisfied the criteria mentioned in the e-tender notice. If the writ petitioner is of the view that there are documents, which would falsify such stand of the State-respondents, and if he has sufficient reason for not disclosing such documents before the learned Single Judge, dismissal of this appeal will not prevent him from approaching the learned Single Judge with an appropriate application in accordance with law. We clarify that we have not entered the merits of the case at all.

Since we have not called for affidavits, the allegations in the stay application are deemed not to be admitted by the respondents.

MAT No.147 of 2024 is dismissed along with IA CAN 1 of 2024.

Urgent photostat certified copy of this order, if applied for, be supplied expeditiously after compliance with all the necessary formalities.

(Arijit Banerjee, J.)

(M. V. Muralidaran, J.)