

D/L. 7.
February 19, 2024.
MNS.

WPA No. 2229 of 2023

M/s. Kundan Traders
Vs.
The State of West Bengal and others

Mr. S. Ganguly,
Mr. Lalratan Mondal,
Mr. Dilip Kumar Sadhu

... for the petitioner.

Mr. M. N. Roy,
Mr. B. Nandy

...for the respondent nos. 2 and 3.

1. Affidavit-of-service filed in Court today be kept on record.
2. Despite service, none appears for the other respondents than the respondent nos. 2 and 3.
3. The grievance of the petitioner is that the petitioner participated in a firewood tender. As per the terms of the tender, in case of any dispute, the decision of the Managing Director, West Bengal Forest Development Corporation Limited, that is, the respondent no. 3 herein shall be final and binding upon the purchaser.
4. The petitioner alleges that although a joint inspection was held, it transpired that the firewood which was sold to the petitioner was

significantly reduced in quantity due to some unknown reason, at the time when the petitioner sought to take possession.

5. Although the respondent nos. 2 and 3 are agreeable to return the money to the petitioner, it is submitted that the petitioner refutes such remedy and insists upon getting the firewood allocated to the petitioner.
6. Learned counsel for the respondent nos. 2 and 3 submits that they are merely a platform and mid-level operator regarding the e-auction and have retained the money as a procedural measure.
7. Hence, if the petitioner is aggrieved in not getting the firewood back, which it has purchased, the respondent nos. 2 and 3 are willing to refund the money to the petitioner.
8. Upon hearing parties, it transpires that a huge mismatch occurred between the firewood actually sold to the petitioner and that which was found at the location. The involvement of foul play as well as complicity of certain officers cannot, thus, be ruled out.
9. However, since no approach has been made by the petitioner till date to the respondent no. 3 under Clause 51 of the tender document, it would be premature to decide on such issue at this juncture.

10.WPA No. 2229 of 2023 is accordingly disposed of by granting liberty to the petitioner to approach the respondent no. 3, the Managing Director, West Bengal Forest Development Corporation Limited, with the grievance as raised in the petition.

11.Upon such approach being made, if so done within a week from date, the respondent no. 3 shall decide the said issue, if necessary, upon giving an opportunity of hearing to the petitioner and definitely upon undertaking a detailed enquiry as to how the gross mismatch between the firewood sold and that found in the location has occurred.

12.Upon such enquiry, appropriate steps shall be taken by the respondent no. 3 to take due measures in law against the recalcitrant persons, including penal measures.

13.That apart, the respondent no. 3 shall also ensure that the firewood due to the petitioner is given to the petitioner.

14.In the event, however, such firewood cannot be ultimately given to the petitioner, the petitioner would be at liberty to approach the competent civil court claiming appropriate damages and/or ancillary relief for such breach of contract.

15. The entire exercise shall be completed by the respondent no. 3 within eight weeks from the approach being made by the petitioner by acting on the server copy of this order, coupled with a written communication by the learned Advocate, without insisting upon prior production of certified copy thereof.

16. There will be no order as to costs.

17. Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)