

04 20.02.2024
NB/AGM Ct. 24

In The High Court At Calcutta
Constitutional Writ Jurisdiction
(Appellate Side)

WPA 3786 of 2024

Tarun Kanti Pal & Anr.
Vs.
The State of West Bengal & Ors.

Mr. Srikanta Datta.
..for the petitioners.

Mr. Lalit Mohan Mahata Id.AGP.,
Mr. Ziaul Haque.
...for the State.

The petitioner is aggrieved by the terms and conditions mentioned in the notice inviting e-tender published by the Office of the Block Development Officer, Harirampur Development Block mentioning that the participation charges have to be deposited in the State Bank of India Account in favour of the Executive Officer, Harirampur Panchayat Samiti.

The petitioner refers to the memorandum issued by the Finance Department, Audit Branch being Memo No.2365-F(Y) dated 12th April, 2018 mentioning that online receipt and refund of EMD and Tender Fees, as applicable on the State Government's e-Procurement Portal through the linked Payment Gateway has been made mandatory vide Finance Department's Memo No.3975-F(Y) dated 28th July, 2016. All entities under the State Government including the local bodies are required to follow the prescribed procedure for online receipt and refund of EMD/Tender Fees, otherwise such tender shall not be treated as valid.

The petitioner submits that the tender fees ought not to have been directed to be paid in favour of the Executive Officer of the Panchayat Samiti.

Learned advocate representing the respondent authorities has taken instruction from the Block Development Officer and submits that the petitioners participated in various tender processes of the Panchayat Samiti and have deposited money in the manner as prescribed in the e-tender notice. In the tenders where the petitioners are unsuccessful, the petitioners are raising this type of issue to stall the tender process.

To decide the issue as to whether the condition mentioned in the subject e-tender notice is in line with the direction passed by the Finance Department or not, the Court refers the matter to the respondent no.3 being the Additional Executive Officer, Dakshin Dinajpur Zilla Parishad to consider the issue after granting reasonable opportunity of hearing to the petitioners and any other necessary party. If it transpires that the condition mentioned in the notice inviting e-tender is not in line with the Government Memorandum, then necessary remedial steps shall be taken by the aforesaid respondent.

A decision shall be taken in the matter at the earliest, but positively within ten days from the date of communication of this order.

Learned advocate for the petitioner is directed to forward a copy of the representation dated 5th February, 2024, Memorandum dated 12th April, 2018 and the impugned e-tender notices to the aforesaid respondent at the time of

communicating the order of the Court. It is expected that the aforesaid respondent shall dispose of the matter prior to the work order being issued.

The writ petition stands disposed of.

Urgent certified copy of this order, if applied for, be supplied to the parties expeditiously, on compliance of usual legal formalities.

(Amrita Sinha, J.)