

22.04.2024
Item No.14
Court No.6.
S. De

**MAT 709 of 2024
With
I.A. No.CAN/1/2024**

**M/s. KGN Enterprise.
Vs.
The State of West Bengal & Ors.**

Mr. Robiul Islam,
Mr. Shamim Ul Bari,
Ms. Asmita Mitra, ...for the appellant.

Mr. Joy Chakraborty,
Mr. Sandip Dinda,
Ranjit Malakar,for the respondent no.8.

Mr. Lalit Mohan Mahata, Ld. AGP,
Mr. Prasanta Behari Mahata,
...for the State.

By consent of the parties, the appeal and the connected application are taken up together for hearing.

A judgment and order dated April 2, 2024, whereby the appellant's writ petition was dismissed by a learned Judge of this Court, is the subject matter of challenge in this appeal.

The appellant carries on business as a contractor. He participated in an E-Tender process, which was notified on February 2, 2024. His technical bid was rejected on March 4, 2024 with the remarks "in sufficient credential". Being aggrieved, the appellant approached the learned single Judge.

Before the learned Judge, the appellant argued that the financial bid for the tender was never notified and, therefore, the appellant was prevented from submitting its financial bid.

Learned advocate for the concerned Gram Panchayat submitted before the learned Judge that the tender in question was opened on March 4, 2024 and work order was issued on March 5, 2024. The work is nearly complete.

The learned Judge noted that in the notice inviting E-Tender, the period for completion of work is thirty days. The learned Judge dismissed the writ petition with the following observations :

“Upon hearing the parties, it appears that the petitioner never approached the respondent authority with his grievances. The instant writ petition has been filed on 28th March, 2024. By the time the matter is taking up for consideration, the works in question are nearly over. There is hardly any scope to exercise jurisdiction in the matter at this stage.”

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

Mr. Islam, learned advocate representing the appellant/writ petitioner says that apart from the fact that the date for submission of the financial bid was

never notified, the rejection of the technical bid submitted by the appellant is also unjustified. The appellant had the requisite credentials. Learned advocate draws out attention to certain certificates issued by the Malda Zilla Parishad.

Learned advocate for the Gram Panchayat says that the certificates relied upon by the appellant pertain to work done by him in 2023 and 2023. There is no certificate relating to any work that he has done in the years 2021 and 2022. He draws our attention to the notice inviting E-Tender and says that credential of 60 % similar nature of single work for the last three years was to be submitted by the appellant. He failed to do this. He further says that the Certificates relied upon by the appellant relate to works which are in no manner similar to the work covered by the subject E-Tender process. Hence, the technical bid of the appellant was rightly rejected by the competent authority.

Mr. Mahato, learned advocate appearing for the State supports the stand of the Gram Panchayat. He further says that the work in question is nearly complete.

The submission made on behalf of the Gram Panchayat and the State is strongly disputed by learned advocate for the appellant.

Having considered the rival contentions of the parties, we are of the view that the learned Judge rightly refused to interfere in the matter. The technical bid of the appellant was rejected on March 4, 2024. The work order was issued on March 5, 2024 in favour of the successful bidder. The period of completion stipulated in the tender documents is thirty days. The appellant waited till March 27, 2024 to approach the learned Single Judge. he should have moved with more sense of urgency. In the mean time, work order has been issued and the work is almost complete. No relief can be granted to the appellant. We see no infirmity in the order of the learned Single Judge.

If the appellant is of the view that his technical bid was wrongfully rejected, he may approach any other forum that may be available to him for claiming appropriate relief, in accordance with law.

MAT 709 of 2024 is disposed of along with the application being I.A. No. CAN 1 of 2024.

Urgent certified photostat copy of this order, if applied for, shall be given to the parties as expeditiously as possible on compliance with all the necessary formalities.

(Arijit Banerjee, J.)

(Prasenjit Biswas, J.)