

M/L
Item No. 30
07.08.2024
KOLE

WPA 10382 of 2024

M/s. Debnath Construction
-Vs.-
The State of West Bengal & Ors.

Mr. Arka Maiti,
Mr. S. Bhattacharyya,
Mr. I. Pervin,

...for the writ petitioner.

Mrs. Piyali Sengupta,
Mr. S. Pandit,

...for the State.

1. The writ petitioner alleges that the tendering authority did not have any right to cancel the tender process after one year from issuance of the notice inviting tender. It appears to this Court that the tender committee had cancelled the tendering process. The petitioner appears to have already asked for a clarification, justifying the decision. The petitioner qualified in the technical round.
2. By a letter dated April 27, 2023, the Chief Medical Officer of Health, Nadia, Government of West Bengal informed the writ petitioner the reason. The petitioner has been informed that there was no justification in the quotation/rate given to the petitioner. The petitioner claimed zero per cent as management fee which meant that the petitioner had not kept any margin for his profit. On such ground, the tender was cancelled.
3. It is not the case of the petitioner that the work order had been issued and the petitioner had either started the work or had invested any money for such

tendering process. The petitioner has not been able to prove that any letter of acceptance had been given to the petitioner. There is, at this moment, no privity of contract between the authority and the petitioner. It is entirely within the domain of a tendering authority whether to continue with the process or not. The petitioner's right has not crystallized, as no letter of acceptance had been issued to the petitioner. The tendering authority was of the view that if zero percent towards management fee is claimed, in that event the payment of statutory obligations like income tax, GST, ESI, PF etc. is usually compromised. At times, the workers are not paid the minimum wages and the deductions are made from their daily wages, toward profit.

4. Under such circumstances, sufficient ground has been made out by the tendering authority to take a decision to cancel the tendering process. The petitioner has also been informed such reasons. If the authority floats another e-tender for the same work, the petitioner is entitled to participate in the process.
5. WPA No. 10382 of 2024 is, thus, disposed of.
6. There shall be no order as to costs.
7. All parties shall act upon the server copy of this order duly downloaded from the website of this Court.

(Shampa Sarkar, J.)