

Item No.11
24.07.2024
Court. No. 9
GB

W.P.A. 14039 of 2024

Archa Kumar Banerjee & Anr.
Vs.
The State of West Bengal & Ors.

Mr. Rabindra Kumar Jaiswal,
Ms. Manjula Paul

...for the Petitioners.

Mr. S.N. Hassan

...for the Haldia Municipality.

The petitioners have approached this court for a direction upon the Administrator/Chairman of the Haldia Municipality to consider and dispose of the representation dated December 15, 2022, which is allegedly pending.

The petitioners contend that they participated in a tender process under the Haldia Municipality. The work order was issued on August 24, 2020. There was a dispute with regard to payment in respect of the work allegedly executed in phase-I. The Chairman, West Bengal Micro Small Enterprises Facilitation Council was approached by the petitioner in this regard.

Phase II of the work was for construction and excavation with concrete lining of Khanjanchak canal (from Khanjanchak S.H. culvert to link road PHE overhead water line), under Ward No.10 within the Haldia Municipality (PH-II). The petitioners contend that being an MSME, they could not continue with this phase II work under grave financial crisis. Full payment of the amount allegedly due to the petitioners for the Phase-I had not been received. Hence, the

petitioners approached the authority for an honourable termination and refund of earnest money as the petitioners wanted to exist from the contract, without executing phase II of the work.

The petitioner approached the authority with the following prayer, which is quoted below:-

“Ref. No.....

Date 15-12-2022

To.

The Administrator/Chairman,
Haldia Municipality
Dr.B.R.Ambedkar Bhawan
Administrative Building, City Centre,
P.O. Debhog, Haldia, Purba Medinipur
East, West Bengal,
Pin: 721657

Through: Assistant Engineer

Sub- Request for Hon'ble termination and refund of earnest money for the work of "Construction of Excavation with concrete lining of Khanjanchak Canal (From Khanjanchak S.H. Culver to link road PHE overhead Water line) under Ward-10 within Haldia, Haldia Municipality (PH-II)

Sir,

Till date I have not received payment for completion of Phase -1 for over 1 year due to non availability of funds. As I'm a MSME small organization and it is not possible to continue work with tremendous fund crisis so I'm requesting you for Hon'ble termination and refund of earnest money of above noted work.

The copy of Challan mentioning Refund/Settlement Tender wise Reports attached for ready reference.

Thanking you,

Yours faithfully,

AISHWARYA CONSTRUCTION AND PROJECTS

Encl: Copy of Challan mentioning Refund/Settlement Tender wise Reports.”

This court does not express any opinion with regard to the validity of the prayer of the petitioners. Whether the authority will accept the prayer of the petitioners, is entirely within the domain of the authority and such decision shall be guided by the terms and conditions of the contract and also the other attending factors which may be relevant to decide the matter, including the petitioners' ability, competence or the lack of it and bonafide.

Under such circumstances, a decision shall be taken by the Administrator/Chairman of the Haldia Municipality within a period of two months from the date of communication of this order, upon disposing of the representations. The petitioner No.1 shall be heard. A reasoned order shall be passed and communicated to the petitioners.

This Court has not gone into the merits of the claim and counter-claim of the parties.

Accordingly, the writ petition is disposed of.

Parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)