

13.06.2024
Item No.ml.71
Crt.No.22
b.r.

WPA 14161 of 2023

Prasanta Ghosh
-vs-
The State of West Bengal & Ors.

Mr. Ziaul Haque
Mr. Himadri Kumar Mahata
..... for the petitioner.

Affidavit of service filed in Court today is taken on record.

None appears for the respondents, despite notice.

The private respondent no.7 is not represented, despite notice.

Mr. Ziaul Haque, learned advocate appearing for the petitioner submits that in terms of a tender floated by the concerned Panchayat Samity, the petitioner has carried out and constructed a stretch of concrete road. The work order was issued on **October 3, 2017, annexure P-1 at page-14** to the writ petition. The petitioner has completed the work under the tender to the satisfaction of the tendering authority and the completion certificate was issued in favour of the petitioner by the appropriate authority on **September 18, 2019, annexure P-3 at page-29** to the writ petition. The petitioner then raised its bills, **annexure p-2 at pages 17 to 28** to the writ petition.

The petitioner contends that the payment outstanding has not yet released to the extent of sum of **Rs.39,10,410/-** in terms of the final bill raised by the petitioner at **page-29** to the writ petition. The petitioner then submitted its demands dated **September 21, 2022 annexure p-5 at page-43** to the writ petition and the successive demands and reminders up to **annexure p-7 at page-46** to the writ petition, the petitioner claims the payment of outstanding amount as stated above.

In view of the above, to sub-serve justice, the **respondent no.3** is directed to consider the representation of the petitioner dated **September 21, 2022 annexure p-5 at page-43** to the writ petition followed by the repeated reminders up to **annexure p 7- at page 46** to the writ petition upon issuing a prior hearing notice of at least seven days to the petitioner and then after granting him an opportunity of hearing shall pass its reasoned order in accordance with law.

The entire exercise as directed above shall be carried out and completed by the **respondent no.3** positively within a period of **six weeks** from the date of communication of this order. The reasoned order shall be communicated to the petitioner positively within a further period of **two weeks** from the date of the said reasoned order to be passed.

It is made clear that this Court has not gone into the merits of the claim of the petitioner and the petitioner shall be at liberty to urge whatever points he wishes to urge in support of his claim but the same shall not travel beyond the representation dated **September 21, 2022** as referred to above by relying upon whatever records and documents he wishes to rely upon before the before the **respondent no.3**.

This order shall not create any equity or right in favour of the petitioner if the petitioner is not eligible to receive his claim or part of his claim strictly in accordance with law.

If the reasoned order goes in favour of the petitioner, the **respondent no.3** shall take all necessary and consequential steps to release the money and pay the petitioner along with interest **at the rate of Rs.8% per annum** from the date of the final bill till the actual tendering of amount to the petitioner. Such payment shall be released in favour of the petitioner and shall be paid to the petitioner positively within a period of **three weeks** from the date of the said reasoned order to be passed.

Since affidavits are not called for, the allegations made in this writ petition are deemed not to have been admitted by the respondents.

With the above observations and directions, this writ petition, **WPA 14161 of 2023** stands **disposed of**, without any order as to costs.

(Aniruddha Roy, J.)