

03.07.2024
Sl. No.235(ML)
srm

W.P.A. No. 17428 of 2022

Sri Anupam Sirkar

Versus

Union of India & Ors.

Mr. Anupam Sirkar ... Petitioner (In-person).

1. Despite repeated services, none appears on behalf of the respondents.
2. The petitioner alleges illegality on the part of the respondent No.6 and the other respondents attached to the Military Engineering Services, by marking every bid entered by the petitioner as 'WLR NO'. The petitioner contends that this amounts to blacklisting and the petitioner was never notified about the reason for such blacklisting. No hearing was ever granted.
3. It appears from the records that on an earlier occasion, the petitioner had participated in a tender process. Initially the technical bid was rejected, but subsequently the petitioner received the work. The date of commencement of the work was June 21, 2018 and the date of completion was December 20, 2018. It is the contention of the petitioner that he did not receive approval of the samples and as such the work could

not be completed on time. Correspondence exchanged between the parties indicate that the respondents alleged that the petitioner was not discharging his obligations properly. The authorities terminated the contract.

4. The termination was challenged before this Court in WP No.8375 (W) of 2019. A learned coordinate Bench of this Court held that termination being the subject matter of the contract, could not be interfered with, as disputed questions of facts were involved. According to the terms and conditions of the contract, a date for completion of the work had been stipulated, which was not complied with. Thus, the writ petition was dismissed.
5. The petitioner went up in appeal. The appeal was dismissed granting liberty to the petitioner to approach any other forum. The petitioner has not approached any other forum.
6. Subsequently, the petitioner again participated in another tender and the petitioner was informed that the work of special repair of road in certain stretches at Bagjola under GE(N) Kolkata, could not be awarded as the petitioner's earlier contract had been cancelled.
7. At this stage, there is no scope for passing any order in this writ petition. It appears that a subsequent communication was received by the petitioner, wherein due to pendency of

this writ petition, the bids of the petitioner were not considered.

8. The writ petition is disposed of granting liberty to the petitioner to agitate his grievance before the authorities, by seeking revocation and/or withdrawal of 'WLR NO' and for grant of permission to be allowed to participate in further tendering processes. The Chief Engineer, Kolkata Zone, Military Engineer Services shall treat the writ petition as a representation and decide the issue as to whether the 'WLR NO' which was initially imposed on the petitioner's firm, Rony Enterprise, can be lifted or recalled or revoked, upon the petitioner satisfying the authority that the said 'WLR NO' could not have been imposed without adequate reasons and that the petitioner was not responsible for any act of non-compliance in case of the earlier contract which had been terminated. It is also important that the issue as to whether the petitioner can be debarred for all times to come, without proper reasons, must be addressed.
9. It is necessary for the authority to give a hearing to the petitioner. The case laws relied upon by the petitioner to substantiate that an enlisted contractor cannot be blacklisted without adequate opportunity of hearing must also be considered. Whether cancellation of bids on the basis of the

said 'WLR NO' was in consonance with the principles of natural justice and also in consonance with the parameters to be complied by the authority before repeatedly debarring an empanelled contractor, shall be revisited. The pendency of the arbitration proceeding shall not be an impediment for the authority to dispose of the writ petition as a representation, as directed hereinabove, upon considering the issues which have been raised. A reasoned order shall be passed and communicated to the petitioner. The entire exercise will be completed within four months from date.

10. There shall be no order as to costs.

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

(Shampa Sarkar, J.)