

Court No. 2
14.8.2024
(Item No. 12)
(AB)

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

W.P.A. 20061 of 2024

Amirul Sk & Anr.
VS
The State of West Bengal & Ors.

Md. Salahuddin
Md. Raziuddin
.... For the petitioners
Mr. Mrinal Kanti Ghosh
Ms. Kakali Pal
.... For the State

Upon urgency being pleaded on behalf of the petitioner and in view of the determination being assigned before this Court, this writ petition has been taken up for consideration by publishing the same in today's cause list.

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

Md. Salahuddin, learned advocate appears for the petitioners.

Ms. Kakali Pal, learned State advocate appears for respondent Nos. 1 to 3.

None appears for the rest of the respondents including the Panchayat and its Pradhan, despite notice.

An accommodation has been prayed for on behalf of respondent No. 5 but considering the issue and urgency involved in this writ petition since the respondent No. 5 has failed to assure that no further step shall be taken till the time the matter shall be

adjourned at its instance, this writ petition has been taken up for consideration.

The concerned Pradhan of the Panchayat had issued a notice inviting tender dated **July 10, 2024, annexure P-2** at **page 19** to the writ petition for carrying out certain infrastructural construction work. The petitioners were the successful bidders.

Learned counsel appearing for the petitioners referring to **annexure P-5** at **page 85** to the writ petition submits that, all on a sudden the bid of the petitioner No. 2 was cancelled by the Panchayat on the plea of a resolution dated **July 12, 2024** and the bid of the petitioner No. 1 was cancelled on the plea of a resolution dated **July 23, 2024** at **page 87** to the writ petition. Learned counsel for the petitioners submits that, no reason was furnished neither copies of the resolution was provided to the petitioners. Learned counsel for the petitioners submits that, this is an e-tender process and the petitioners had deposited all the necessary payment and documents required to be deposited under the tender terms and in this regard he has referred to payment document appearing at **pages 82 onwards** to this writ petition. He then refers to a circular issued by the State Government through its Panchayat department dated **November 21, 2023** at **page 94** to the writ petition, and submits that, for e-tender the bidders have to be given the option for online payment or earnest money deposit without mandatorily asking them to physical

deposit. Necessary documents were also to be submitted through online process while submitting the e-tender forms. Learned counsel then refers to a representation dated **July 24, 2024, annexure P-6** at **page 90** to the writ petition and submits that, the petitioner No. 1 has asked for the reasons for rejection but the said representation has not been considered. There is no such representation made on behalf of the petitioner No. 2, but no reason for rejection of his bid was also communicated to the petitioner No. 2. Learned counsel for the petitioners submits that, any day the work order shall be issued in favour of the other bidders as the other bidders are already selected and such fact will be evident from **annexure P-5** to the writ petition.

In the light of the above, it is submitted on behalf of the petitioners that, if the work order is issued in favour of the said other bidders as a result of cancellation of tender bid of the petitioners without assigning any reason to the petitioners, the interest and right of the petitioners shall be prejudiced.

Learned State counsel referring to **page 91** to the writ petition submits that, the bid of the petitioners were rejected upon technical evaluation caused by the duly constituted committee. Refer to **page 92** to the writ petition submits that reasons are also mentioned there.

In absence of any representation from the respondent No. 5 no submission could be made on its behalf.

After considering the rival contentions of the parties and upon perusal of the materials on record, it appears to this Court that, none of the respondents could appraise this Court when the work order shall be issued under the subject tender process.

The law is trite that, when a bid of the bidders in a tender process is rejected upon evaluation, the reasons shall be communicated to such bidders. The record shows merely reference of two resolutions of different dates for the two petitioners but no reasons are available as to why the bids of the petitioners were rejected.

In view of the above, the respondent No. 5 is directed to communicate the reasons for rejection of the bids of the petitioners in writing positively within a period of **three working days** from the date of communication of this order, if not communicated earlier. The respondents shall proceed with the tender process **but shall not issue the work order** in favour of the successful bidders till **August 23, 2024**.

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 **W.P.A. 20061 of 2024** stands disposed of, without any order as to costs.

In view of the urgency involved in the matter the respective learned advocate on records for the respective parties shall be at liberty to communicate gist of this order to the parties to the writ petition.

Photostat certified copy of this order, if applied for, be furnished expeditiously.

(Aniruddha Roy, J.)