

AD-11
Ct No.36
04.10.2024
TN

RVW 239 of 2024
IA No: CAN 1 of 2024

M/s Sukanta Construction and another
Vs.
The State of West Bengal and others

Mr. Suddhasatva Banerjee,
Mr. Abhisekh Kabir,
Mr. Aurin Chakraborty

....for the petitioners

Mr. Anirban Roy, Ld. GP,
Sk. Md. Galib, Ld. Sr. Govt. Adv.,
Mr. Safik Dewan

....for the State

1. The present review application has been filed in terms of an observation of the Division Bench to the effect that this court be approached for a clarification of the order of this court which has been challenged before the said Division Bench.
2. The writ petition was filed by the review applicants, being aggrieved by the decision of the respondent authorities to partially refuse the claim of the petitioners. By the impugned decision of the respondents dated August 22, 2023, the writ petitioners were held to be entitled to get compensation amounting to Rs.21,14,157/- due to hike in price of Bitumen in terms of a particular Notification dated June 20, 2007. However, the claim of interest was turned down.
3. Subsequently, on a plea that the petitioners had inadvertently omitted to claim the original price of the

work done, the writ petition was taken out. The writ petitioners contended before this court that the original price of the work should also have been included in the amount payable to the petitioners.

4. This court, by an order dated November 16, 2023, set aside the impugned decision of the respondent authorities dated August 22, 2023 while directing the respondents to give a fresh opportunity of hearing to the petitioners and upon considering the arguments of the petitioners and assessing all relevant documents in that regard, including the DPR relied on by the petitioners, to come to a fresh reasoned conclusion as to what amounts, if any at all, are due to the petitioners for the work originally done by the petitioners.
5. In the same breath, it was observed by this court that nothing in the order shall preclude the respondent authorities from disbursing the amounts due to the petitioners afresh on account of the compensation for enhanced rates. If such disbursement was made to the petitioners, the petitioners were to receive the same without prejudice to their rights and contentions on the issues involved in the rehearing as directed by the court.
6. Learned counsel appearing for the respondents argues that the present application, in the light of the observation of the Division Bench granting leave to the petitioners to seek a clarification, is not one for review,

since there was no error apparent on the face of the order of this court. Rather, it is the writ petitioners who had themselves sought setting aside of the impugned decision of the respondents in the writ petition. Thus, the review application is not maintainable in its present form.

7. Upon a careful consideration of the materials, the court is of the following opinion:
8. The writ petition, although couched with a prayer for setting aside the impugned decision of the authorities, was primarily against the non-grant of the original price of work done by the petitioners.
9. Hence, the expression “setting aside” in the prayer portion of the writ petition was substantially a misnomer. The court, taking it in such spirit only, had directed the respondent authorities to reconsider and come to a reasoned conclusion upon hearing the petitioners only on the aspect of price for the work originally done by the petitioners, as is clearly elicited from paragraph no.10 of the order of this court dated November 16, 2023. For the purpose of further clarification, in the very next paragraph, that is, paragraph no.11 of the order, this court had clearly mentioned that nothing in the order shall preclude the respondent authorities from disbursing the amounts due to the petitioners afresh on account of the compensation for enhanced rates. Such payments would be without prejudice to the rights and

contentions on the issues involved in the rehearing as directed by the court.

10. Thus, the substantial tenor of the order of this court segregated the matter into two aspects: the first, the price for work already done by the petitioners which was not considered at the first instance and directed to be reconsidered by the respondent authorities by the order of this court, and the second, the compensation already granted to the petitioners which was not touched by this court as clearly enumerated in paragraph no.11 of the said order.
11. Hence, although no further clarification is required, it is evident that the tenor of the order dated November 16, 2023 passed in WPA No. 23752 of 2023 was that the portion of the impugned decision of the respondents dated August 22, 2023 whereby further prayers apart from compensation were refused by the respondent authorities was set aside. The matter was sent back to the respondent authorities for a reconsideration of such aspect of the matter, namely, the interest component which was not granted and the component of price for work already done by the petitioners allegedly. Insofar as the compensation granted by the respondents by the impugned decision dated August 22, 2023 to the petitioners is concerned, the same was kept intact and not interfered with in any manner by this court.

12. Hence, by necessary implication, the petitioners are entitled to the sum of Rs.21,14,157/- in lieu of compensation due to hike in price of Bitumen which was already granted by the respondents and the respondents are duty-bound to pay the said component to the petitioners irrespective of any of the observations made in the previous order of this court.
13. With such clarification, the matter be sent back to the Division Bench where the substantial appeal is pending.
14. It is relevant to mention here that the objection on maintainability taken by the respondents is somewhat technical in nature. Although couched as a review application, the present application is basically a clarification application in the light of the observation made by the Division Bench in its order dated May 07, 2024 and is taken in such spirit by this court.
15. Accordingly, RVW 239 of 2024 along with IA No: CAN 1 of 2024 are disposed of in the light of the above observations.
16. There will be no order as costs.
17. Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)