

12.09.2024
Sl. No.12-14
AKG
Ct. 15

WPA 21716 of 2024
Eyajul Molla
-vs-
The State of West Bengal & Ors.

WITH

WPA 17865 of 2024
With
CAN 1/2024
Azharul Haque Sardar & Anr.
-vs-
The State of West Bengal & Ors.

WITH

WPA 19659 of 2024
Motaleb Molla
-vs-
The State of West Bengal & Ors.

Ms. Pampa Dey Dhabal,
Ms. Sangita Banerjee
...for the Petitioner in WPA 21716/2024 &
WPA 19659/2024

Mr. Surajit Samanta,
Ms. Sohini Samanta
...for the Petitioner in WPA 17865/2024
Ms. Pampa Dey Dhabal
...for Respondent No. 6 in WPA 17865/2024

Mr. Amal Kr. Sen,
Ms. Ashima Das (Sil)
...for the State in WPA 21716/2024 &
WPA 17865/2024

Mr. Chandi Charan De,
Mr. Anirban Sarkar
...for the State in WPA 19659/2024

Mr. Nilotpall Chatterjee,
Mr. Tapas Kumar Mondal
...for South 24 Parganas Zilla Parishad

These three writ petitions are taken up for
hearing together since they pertain to a tender in

respect of “Satyanarayanpur Jyotishpur” ferry-ghat. The petitions are, however, disposed of by the following three separate orders.

In Re. : WPA 19659 of 2024

The petitioner entered into a "Leave and Licence Agreement" dated February 9, 2021, with the South 24 Parganas Zilla Parishad concerning the 'Satyanarayanpur Jyotishpur' ferry. The petitioner's engagement was sanctioned by a Notification, Memo No. 769-WT/TR/T/3W-18/2018, dated January 28, 2020, issued by the State Transport Department.

The learned advocate representing the petitioner argues with considerable force that, according to the agreement, the arrangement with the petitioner should have been maintained for a period of five years from the date of the agreement. The petitioner contends that during the tenure of the agreement, the Zilla Parishad issued a new tender, which the petitioner challenges.

The relevant portion of the notification dated January 28, 2020, is quoted below:

“NOW, THEREFORE, in order to promote use of suffer boats under Jaladhara Scheme in the interest of public, the Governor is pleased hereby to declare a policy in context to the management control of important ferry-ghats/ferry services as follows:-

- i) For the existing operators where contract/agreement has expired:
New tender to be floated for selection and engagement of new operator for a period of five (5) years provided that**

the new operator is in possession of minimum two (2) numbers of Jaladhara boats duly approved and registered with the Inland Waterways Transport (IWT) Directorate, of requisite capacity.

- (ii) For the existing operators where contract has not expired:**

The existing operators are to be asked to replace the existing in the unauthorised Bhutbhuties by two (2) numbers of approved Jaladhara Boats as noted paragraph (i) above within three (3) months positively and the tenure of lease period will remain unchanged for such Jaladhara boats. In case of non-compliance, the existing contract to be terminated and new tender may be floated as per paragraph (i) above.

- (iii) Where Jaladhara boats have been provided by the Government:**

Tender for operation of ghats only to be invited for minimum three (3) years terms with the conditions that boats to be maintained properly as per SOP (Standard Operating Procedure) of jetties & boats and renewed/surveyed on regular boats from the Inland Waterways Transport (IWT) Directorate.”

It is undisputed that the lease for the ferry was initially granted to the petitioner for one year, from April 1, 2019, to March 31, 2020. Due to the COVID-19 pandemic, the arrangement was extended until June 30, 2024. Consequently, the petitioner was engaged for the ferry ghat for a period of at least five years.

Given these circumstances, it must be concluded that the existing contract/agreement with the petitioner was in effect at the time the Notification dated January 28, 2020, was issued, and therefore, the petitioner's case should be governed by Clause (ii) of the notification. The petitioner has not produced any evidence demonstrating compliance with Clause (ii), specifically the replacement of the existing “Bhutbhuti” with two approved “Jaladhara” boats. Thus, it is evident that the South 24 Parganas Zilla Parishad acted justifiably in not continuing the agreement with the petitioner and in issuing a new tender.

Mr. Nilotpal Chatterjee, the learned advocate for the South 24 Parganas Zilla Parishad, has submitted that the petitioner previously paid an annual license fee of Rs. 88,85,718, whereas a bid of Rs. 16 lakhs per annum was received following the tender.

Given that the petitioner has not demonstrated a continued right to the arrangement/agreement with the South 24 Parganas Zilla Parishad, the action of the Zilla Parishad in inviting a new tender should not be interfered with.

Accordingly, **WPA 19659 of 2024** is dismissed. All interim orders passed in this writ petition are hereby vacated.

In Re: WPA 17865 of 2024 with CAN 1/2024

The petitioner, by filing this writ petition, has sought the initiation of a new tender process in terms of the Notification Memo No. 769-WT/TR/T/3W-18/2018 dated January 28, 2020, issued by the Transport Department of the State.

No further orders are necessary as the South 24 Parganas Zilla Parishad has already conducted the tender as previously noted.

Consequently, **WPA 17865 of 2024** along with **CAN 1 of 2024** is disposed of. All interim orders passed in this writ petition are hereby vacated.

In Re: WPA 21716 of 2024

A notice dated July 26, 2024, issued by the South 24 Parganas Zilla Parishad, invited bids for a three-year lease concerning the 'Satyanarayanpur Jyotishpur' ferry ghat. The petitioner was the highest bidder. The deadline for bid submission was 3 p.m. on August 16, 2024.

The petitioner contends that his bid of Rs. 50 lakh was required to be submitted via bank draft. A bank draft for Rs. 39 lakh was prepared; however, a draft for remaining Rs.11 lakh could not be prepared due to an internet connection failure at the bank. The petitioner subsequently prepared the bank draft for the remaining Rs.11 lakh and sought to deposit it with

the South 24 Parganas Zilla Parishad after 3 p.m. on August 16, 2024. The Zilla Parishad, however, refused to accept the late bid. The petitioner by filing this writ petition prays that the Zilla Parishad be directed to accept the belated bid.

Mr. Nilotpal Chatterjee, learned advocate for the South 24 Parganas Zilla Parishad, referenced the petitioner's representation dated August 16, 2024, wherein the petitioner requested an extension of the bid submission deadline until 6 p.m. on August 16, 2024. Mr. Chatterjee argues that the petitioner submitted another representation for an additional day to submit the bid. Mr. Chatterjee cited a notification from the relevant bank indicating that internet connection failure caused a suspension of banking operations for the whole day on August 16, 2024. He further submitted that August 17, 18, and 19 were holidays, and the second highest bidder submitted his bid on August 21, 2024, which was accepted by the Municipality.

The tender notice clearly stipulates that in case of any dispute, the decision of the relevant department will be final. It is my view that the tender should have been conducted in accordance with the notice dated July 26, 2024, which specified a precise submission deadline. There is no basis for granting special concessions to bidders based on timing issues. In

tender matters, the Court cannot exercise discretion beyond what is provided for in the contract. Therefore, the department's decision not to accept the belated bid cannot be interfered with by this Court.

Consequently, I am disinclined to entertain this writ petition. The South 24 Parganas Zilla Parishad shall complete the tender process in accordance with the law.

WPA 21716 of 2024 is disposed of.

Urgent certified *website* copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Kausik Chanda, J.)