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21.03.2024  
d.p.

**In The High Court At Calcutta  
Special Civil Jurisdiction  
Appellate Side**

**WPCRC 204 of 2023  
in  
W.P.A 7841 of 2022**

**Aloka Construction  
-versus  
Mr. Indrajit Dhar & Ors.**

**Mr. Sanjay Saha,  
Mr. Lalratan Mondal,  
Mr. Sk. Kiron.  
...For the Petitioner.**

**Mr. Subrata Ghosh.  
... For the contemnors**

The instant contempt application arises out of an order passed by this Court on 8<sup>th</sup> August, 2022.

By the said order, the Court directed the Municipality to release certain payment to the petitioner in accordance with the bills raised.

In the writ petition it was submitted by the petitioner that the final bill certifying the work performed by the petitioner was examined and found to be satisfactory. According to the Municipality, the payment could not be made even though the bills were admitted on account of paucity of funds.

The present Chairman of the Municipality who took over charge on 29<sup>th</sup> August, 2023 has brought to the notice of the Court that several illegalities were committed at the time of floating the tender.

Documents in support of the illegalities have been annexed with the affidavit filed by the present Chairman. An exception to the said affidavit has been filed by the petitioner.

Learned advocate appearing for the Municipality has brought to the notice of the Court the order dated 18<sup>th</sup> January, 2024 passed by the Hon'ble PIL Bench in WPA (P) 13 of 2024 (Prasenjit Mondal -vs- The State of West Bengal & Ors.).

The communication made by the Executive Officer of the Municipality to the Sub-Assistant Engineer of the Municipality dated 8<sup>th</sup> March, 2024 and the reply thereto made by the Sub-Assistant Engineer to the Executive Officer on 9<sup>th</sup> March, 2024 has also been brought to the notice of the Court.

It appears therefrom that the works put to tender in respect of which the petitioner claims payment was enquired and it revealed that the said work order was issued in favour of one Om Swasti Construction being the lowest bidder and the said agency executed the said work. The petitioner never performed the work at all. Without performing the work the petitioner claims payment.

Though the petitioner denies the aforesaid submission but on a perusal of the tender document it appears that there has indeed been irregularity at the time of issuance of tender. The work in question has been put to tender twice.

The Court fails to understand as to how a single work could be put to tender twice and payment can be sought without performing the work. The

municipality asserts that payment had already been made to the agency which performed the work.

The Court is not at all convinced that the work in respect of which the petitioner seeks payment was executed by it. An investigation has already been directed by the Hon'ble PIL Bench.

The order seeking implementation was passed on the very first day when the matter was taken up for consideration by the Court without calling for any affidavit. The submission made by the petitioner was admitted by the learned advocate representing the municipality. The facts admitted at the time disposal of the writ petition have been specifically denied by the present Chairman of the municipality.

The Court is satisfied that the order passed by this Bench could not have been complied with by the alleged contemnor as the payment in question had already been disbursed in favour of the agency which actually performed the work in question. According to the municipality, work was not performed by the petitioner at all and, accordingly, the question of payment does not arise.

In view of the above, the contempt application stands dismissed.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

**( Amrita Sinha, J.)**