

350
10.04.2024
Court no. 24
AGM

**In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

W.P.A. 27400 of 2023

**Shiv Enterprise & Ors.
-versus
The Bidhannagar Municipal Corporation & Ors.**

**Ms. Sanghamitra Nandy.
...For the Petitioners.**

**Mr. Sirsanya Bandopadhyay,
Mr. Tirthankar Dey,
Mr. Arka Kumar Nag.
...For BMC.**

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

The petitioners seek release of payment of the amount in terms of the work order dated 22.09.2020 being NIT No. 205/PWD/BMC, Dated: 29.06.2020, Serial No.: 06, e-Tender I.D-2020_MAD_287561_6.

Representation filed by the petitioners is pending consideration at the end of the Bidhannagar Municipal Corporation.

Learned advocate representing the Corporation relies upon the order dated 15th December, 2023 passed by a Coordinate Bench in WPA 16357 of 2023 (Jaya Construction and Company & Anr. -Vs- The State of West Bengal & Ors.) where the Court in similar circumstances was pleased to dismiss the writ petition with the observation that the dismissal will not preclude the petitioner from instituting a proper suit for the present relief sought for, however, subject to the law of limitation.

In the instance case, the petitioner has relied upon the work order issued in its favour. There is nothing on record to suggest that payment in respect of work order has been made in favour of the petitioner. The respondent authority ought to have paid the petitioner provided the work was completed in accordance with the work order and should not have compelled the petitioner to approach the Court for relief.

Without entering into the merit of the claim of the petitioners, the instant writ petition is disposed of by directing the Commissioner, Bidhannagar Municipal Corporation to consider the representation made by the petitioners in accordance with law, after giving a reasonable opportunity of hearing to the petitioners at the earliest, but positively within a period of twelve weeks from the date of communication of this order. If any amount is found due and payable, the same shall be released at the earliest.

Learned advocate appearing for the petitioners is directed to forward a copy of the representation dated 4th December, 2023, work order dated 22.09.2020 and other documents in support of the claim to the aforesaid respondent at the time of communicating the order of the Court.

The writ petition stands disposed of.

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

(Amrita Sinha, J.)