

**IN THE HIGH COURT AT CALCUTTA
Circuit Bench at Jalpaiguri
Constitutional Writ Jurisdiction
Appellate Side**

WPA 2166 of 2023

**Ashutosh Ghosh
Versus
The State of West Bengal and Ors**

Mr. Satrajit Sinha Roy, Adv.

...for the Petitioner.

Mr. Momenur Rahman, Adv.

Mr. Subir Kr. Saha, Adv.

...for the State

Mr. Satrajit Sinha Roy, learned counsel, is appearing for the petitioner.

Mr. Momenur Rahman, learned counsel, is appearing for the State.

The petitioner has filed the present application praying for a direction upon the respondent no.2 to issue a performance certificate with effect from 10th February, 2021 till the date of filing of representation.

As per the case of the petitioner, the tender was awarded with respect to supply of cooked diet for the indoor patient of Siluguri District Hospital to the respondent no.5 and the respondent no.5 by way of authorization letter dated 10th February, 2021 has allowed the petitioner to execute the tender work awarded to the private respondent and accordingly, the

petitioner has executed the work and had made a representation to the respondents No. 2, 3 and 4 for issuance of certificate of performance from 10th February, 2021 till the date of representation as the authorities have not provided the performance certificate, the petitioner has filed the present writ application.

Counsel for the state respondent submits that petitioner is no way connected with the tender work as the private respondent had participated in the tender process and the work was awarded to the private respondent but the petitioner has made representation for issuance of performance certificate which the respondent could not issue as the petitioner is no way connected with the respondent.

Heard the learned counsel for the respective parties.

Perused the application.

Admittedly the tender was awarded to the private respondent for supply cooked diet. The petitioner has relied upon the authorization dated 10.02.2021 wherein it is mentioned that the petitioner has been authorized to act regarding the supply of cooked diet for inpatient of Siliguri hospital but after going through the said certificate, it is found that the said certificate was not issued by the respondent no.5, it has been issued by one Priodeep Bhowmick.

Counsel for the petitioner submits that he is the son of the proprietor of the respondent no.5. This Court also found that the authorization letter which the petitioner has relied upon has not been communicated to the respondents No. 1 to 4 informing the respondents that the petitioner has been authorized to execute the work for supply of cooked diet to the inpatient of the Siliguri District Hospital in place of respondent no.5.

The petitioner claims the performance certificate from the authorities but the petitioner is no way connected for execution of the work as the work was awarded to the private respondent. If the petitioner intends to get any certificate of performance for executed work as sub-contractor, the petitioner can obtain the said certificate from the private respondent and not from the authorities.

In view of the above, this Court finds that no order can be passed in the writ application for issuance of performance certificate as prayed for by the petitioner.

Hence, the writ application is disposed of.

(Krishna Rao, J.)