

21.01.2025

rpan/10

MAT 83 of 2025

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IA No.: CAN 1 of 2025

Sanvi Construction

– *Versus* –

The State of West Bengal & Others

Mr. Kallol Basu,
Mr. Nilanjan Pal,
Mr. Joy Chakraborty,
Ms. Shreejita Sen

... for the Appellant.

Mr. N. Chatterjee,
Mr. Debraj Sahu

... for the State/Respondent no.1.

Mr. Kishor Datta, Ld. AG

Mr. Anirban Ray, Ld. GP

Mr. Piyush Agrawal,

Mr. Sanjay Saha,

Ms. Shrivalli Kajaria,

Ms. Debdutta Mukhopadhyay

... for the Respondent nos.2 & 3.

Affidavit-of-service, as filed, be kept on record.

The present appeal has been preferred by the writ petitioner / appellant challenging the order dated 13th January, 2025 passed by the learned single Judge in the writ petition being WPA 703 of 2025.

Records reveal that the writ petition was preferred challenging a notice dated 20th December, 2024 issued seeking Request for Proposal (in short, RPF) from empaneled Mine Developer and Operators for selection of Mine Developer and Operator (in short, MDO) of Sand Blocks in West Bengal. By the order impugned in the present appeal, the learned single Judge did not interfere with the said notice, however, it was observed that in the event a further notice inviting expression of interest for empanelment as an MDO is issued, the writ

petitioner/appellant herein would be at liberty to participate therein if he fulfils the other criteria to participate.

Mr. Basu, learned senior advocate appearing for the appellant argues that the impugned notice dated 20th December, 2024 restricts the participation only amongst empaneled MDOs undermining the need to maintain transparency in grant of public contracts. In support of such contention reliance has been placed upon the judgement delivered in the case of *Nagar Nigam, Meerut Vs. Al Faheem Meat Exports (P) Ltd. and Others*, reported in (2006) 13 SCC 382.

He contends that earlier by a notice dated 10th September, 2021, as annexed at page 63 of the stay application, steps were taken for empanelment of operators and not for any MDO. The term '*operator*' does not include MDO, as would be explicit from the definition of '*operator*' under Rule 2(1)(xiii) of the West Bengal Sand (Mining, Transportation, Storage and Sale) Rules, 2021 (hereinafter referred to as the 2021 Rules). The procedure prescribed for sand mining under Rule 4 of the 2021 Rules has also not been followed by the respondents. Such arguments, as advanced, were glossed over by the learned single Judge and no finding was returned on the same. Such infirmity warrants interference of this Court.

Mr. Datta, learned Advocate General appearing for the respondent nos.2 and 3 denies and disputes the contention of Mr. Basu and submits that notification dated

10th September, 2021 had not been challenged by the appellant. At this stage, the appellant cannot question such empanelment of operators or the jurisdiction of the respondent no.2 towards issuance of the said notice dated 10th September, 2021. The learned single Judge had rightly turned down the appellant's challenge as the same would reinvigorate an issue which has already been attained finality.

Mr. Datta further submits that the appellant had failed to establish any arbitrariness or unreasonableness in the process towards selection of MDO of Sand Blocks in West Bengal initiated *vide* notice dated 20th December, 2024 and that there is no infirmity in the order impugned.

We have heard the learned advocates appearing for the respective parties and considered the materials on record.

Indisputably, the notice dated 10th September, 2021 has not been challenged in the writ petition. No complaint was even lodged by the appellant contemporaneously. It is only after issuance of the notice dated 20th December, 2024, the appellant had preferred the writ petition. No *mala fide* can be attributed to the action of the respondents and it is also not a case that the respondents have acted in a manner which would benefit any particular party at the cost of the respondents.

The learned single Judge upon dealing with the factual aspects arrived at specific findings and we do not find any infirmity in the same.

Accordingly, the appeal and the connected application are dismissed.

There shall, however, be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties, upon compliance of all requisite formalities.

(Partha Sarathi Chatterjee, J.) (Tapabrata Chakraborty, J.)