

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

Present :-

The Hon'ble Justice PARTHA SARATHI SEN

WPA 11072 of 2025

Panorama Electronics Pvt. Ltd.

Vs.

The State of West Bengal & Ors.

For the petitioner :

Mr. Joydeep Kar, Sr. Adv.
Mr. Sourav Chatterjee, Sr. Adv.
Mr. Srijib Chakraborty, Adv.,
Mr. Soumya Nag, Adv.

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For the State:

Mr. Lalit Mohan Mahata, AGP
Mr. Prasanta Behari Mahata, Adv.

For the respondent nos. 2 to 4/WBHIDCO: Mr. Abhratosh Majumder, Sr. Adv.

Mr. Chayan Gupta, Adv.,
Mr. Saaqib Siddiqui, Adv.

Hearing concluded on:

21.05.2025.

Judgment on:

21.05.2025.

PARTHA SARATHI SEN, J. : –

1. The affidavit-of-service as filed today is taken on record.
2. By filing the instant writ petition the writ petitioner has challenged the correctness and/or justifiability and/or reasonableness of the memo dated 06.05.2025 as has been issued to the writ petitioner by the respondent no. 3/authority.

3. For effective adjudication of the instant writ petition some admitted facts are required to be dealt with and those are as under:

- (i) On 07.03.2019 the respondent no. 2/authority published a Notice Inviting Expression of Interest (hereinafter referred to as NIEI in short) for allotment of land of WBHIDCO Land at Bengal Silicon Valley IT Hub in New Town, Kolkata on 99 years leasehold basis.
- (ii) The reserved price of submission of closed bid for the said NIEI was fixed by the respondent no. 2/authority to the tune of Rs. 4.70 crores per acre as one time lease premium excluding applicable tax, if any.
- (iii) The writ petitioner quoted 18 percent over the said reserved price of Rs. 4.70 crores per acres as one time lease premium.
- (iv) In the said NIEI earnest money was fixed to the tune of Rs. 25 lakhs which was to be deposited along with the application for allotment.
- (v) The respondent no. 2/authority found the present writ petitioner as a successful bidder and on 09.12.2020 Letter of Intent (LOI in short) was issued to the writ petitioner indicating therein the number of installments, percentage of land premium, amount payable by the writ petitioner including payment schedule which is/are supposed to be paid and/or complied with by the writ petitioner.
- (vi) On 04.02.2021 the writ petitioner made payment of the first installment in terms of the payment schedule of the said LOI.

- (vii) On 03.08.2021 the writ petitioner issued a letter to the respondent no. 3/authority requesting him to refund the amount of the first installment and also expressed its intention to surrender the plot in question being plot no. SB 12 on account of surge of COVID-19.
- (viii) On 08.02.2022 a similar letter was issued by the writ petitioner as sent through mail expressing its intention to surrender the said plot with a further request to the respondent no. 3/authority to refund the amount of the first installment at the earliest.
- (ix) On 03.08.2022 the writ petitioner, however, change his mind and by issuing a letter requested the respondent no. 3 to allow it to make payment of final installment without any additional interest.
- (x) On 04.09.2024 the respondent no. 3/authority by issuing a memo to the writ petitioner declined to waive off the penalty charges.
- (xi) On 12.09.2024 the writ petitioner issued another letter to the respondent no. 3/authority enclosing therewith an account payee cheque for the sum of Rs. 3,39,37,220/- in the name of the respondent no. 2/authority requesting the respondent no. 3/authority to accept such payment towards the full and final payment in respect of the proposed allotment of plot no. SB 12 with a further request for providing a chance of hearing on waiver of interest as claimed by the respondent no. 2/authority.

(xii) Ultimately, on 06.05.2025 the respondent no. 2/authority issued another memo to the writ petitioner clearly indicating the pursuant to the decision of that State Cabinet dated 21.02.2022 the imposition of penalty charges at the rate of 12.5 percent per annum cannot be waived off which is under challenge in the instant writ petition.

4. In course of hearing Mr. Kar, learned Senior Advocate appearing on behalf of the writ petitioner submits before this Court that from the materials as placed before this Court, it would reveal that the writ petitioner had paid the earnest money of Rs. 25 lakhs at the time of making application and pursuant to the terms and conditions of the letter of LOI as issued in favour of the writ petitioner, the writ petitioner has also paid the first installment to the tune of Rs. 1,21,45,740/- within the stipulated period as has been mentioned in the LOI. It is further submitted by Mr. Kar that on account of surge of pandemic and on account of phase wise lockdown as initiated on and from 15.03.2020 till 20.02.2022 the writ petitioner/company had to undergo various constraints and on account of such the writ petitioner was compelled to request the respondent no. 3 to accept the surrender of the aforementioned plot with a further request to refund the first installment amount as has been paid by the writ petitioner.
5. It is submitted by Mr. Kar that from the series of communications as made by the writ petitioner with the respondent no. 3/authority and as have been annexed with the instant writ petition it would reveal that the writ

petitioner's several requests have not been considered by the respondent nos. 2 to 4 for the reasoned best known to them and finding no other alternative, the writ petitioner by issuing a letter dated 30.08.2022 requested the respondent no. 4/authority to take a benevolent stance by allowing the writ petitioner to make final payment in terms of the aforementioned LOI without imposing any additional interest burden.

6. At this juncture, Mr. Kar took me to page nos. 101 to 107 of the instant writ petition being a copy of the letter dated 12.09.2024 as issued by the writ petitioner to the respondent no. 3/authority wherein the writ petitioner most fervently requested the respondent no. 3/authority to allow it to pay the second installment towards full and final payment in respect of the plot no. SB 12 with a further request to give a chance of hearing to the writ petitioner on the prayer of the writ petitioner for waiver of interest upon furnishing relevant documents.
7. At this juncture, Mr. Kar draws attention of this Court to the letter dated 06.05.2025 which is the subject matter of the instant writ petition as has been annexed at page nos. 120 to 123 of the instant writ petition. It is submitted that from the said letter dated 06.05.2025, it would reveal that the respondent nos. 2 to 4, more specifically; the respondent no. 3 most unilaterally communicated a decision regarding imposition of penalty over the second installment of land premium without giving any opportunity of hearing to the writ petitioner as prayed for. It thus submitted by Mr. Kar

that the respondent no. 3 being an authority under Article 12 of the Constitution of India is duty bound to follow the principle of natural justice and in not doing so a serious miscarriage of justice has occurred for which interference of this Court in judicial review is very much warranted.

8. In his next fold of submission Mr. Kar requests this Court to peruse page no. 123 of the instant writ petition being the calculation sheet of penalty charges as has been done by the respondent no. 3 *vis-à-vis* the different clauses of NIEI as well as the LOI. It is submitted by Mr. Kar that on careful consideration of the various clauses of the NIEI, LOI and the contents of page no. 123 being the calculation as has been done by the respondent no. 3, it would reveal that the respondent nos. 2 to 4/authorities, more specifically the respondent no. 3 had made such calculation in a most arbitrary manner which clearly indicates absolute unreasonableness in such decision for which the same is required to be quashed by issuing appropriate writ/writs as prayed for in the instant writ petition.
9. *Per contra*, Mr. Majumder, learned Senior Advocate appearing for the respondent nos. 2 to 4, in course of his submission also draws attention of this court to NIEI dated 07.03.2019. It is submitted by Mr. Majumder that on careful perusal of the contents of the NIEI as has been annexed at page nos.38 to 80 of the instant writ petition, it would reveal that the very purpose of floating of said NIEI is basically for development and establishment of IT hub in the State of West Bengal, more specifically in New Town, Kolkata.

10. It is further submitted by Mr. Majumder that from the LoI as has been issued in the name of the writ petitioner, it would reveal that the same was issued on 09.12.2020 i.e. during the period of surge of Covid 19 and therefore, by no stretch of imagination the writ petitioner can take the plea that on account of surge of Covid, the writ petitioner could not pay the second and final instalment in terms of the said LoI.
11. It is further submitted by Mr. Majumder that this court must be very slow in issuing appropriate writ/writs which is/are highly prerogative in nature inasmuch as the writ petitioner before this court has miserably failed to show their *bona fide* on account of their inability to make second and final payment in terms of the said LoI, since during the stipulated period of 150 days the writ petitioner has not approached the respondent nos.2 to 4 for extension of time to make such payment.
12. It is thus submitted by Mr. Majumder that from materials as placed before this court, it would reveal that the writ petitioner had rather taken a contrary stand and expressed his intention to surrender his aforementioned plot with a further request to refund 25% of the land premium as made by the writ petitioner in terms of the LoI.
13. It is further submitted by Mr. Majumder that in order to show its *bona fide*, the writ petitioner has also not annexed any document of the relevant period in order to establish that during the period of default the writ petitioner company was financially handicapped.

14. At this juncture, Mr. Majumder draws attention of this court to page nos.120 to 123 of the instant writ petitioner being the copy of the letter under challenge dated 06.05.2025.
15. It is submitted by Mr. Majumder that from the calculation sheet as made by the respondent no.3 authority, it would reveal that the respondent no.3 authority had merely charged 12.5% per annum towards delayed payment and no additional penalty was imposed upon the writ petitioner for non-payment of the second instalment as per LoI as has been wrongly canvassed on the part of the writ petitioner.
16. It is further argued by Mr. Majumder that the respondent nos.2 to 4 being the functionaries of the State while dealing with the public money have duly discharged their duties and obligations merely by making calculation of interest payable by the writ petitioner over the amount of second instalment only on account of delay, though the respondent nos.2 to 4 authority had every authority to cancel the LoI and to forfeit the deposit as made by the petitioner in terms of the said LoI dated 09.12.2020 without making any further reference in this regard. It is thus submitted by Mr. Majumder that in not doing so the bona fide of the respondent nos.2 to 4 authority ought not to be challenged and thus there cannot be any justification to quash the letter dated 06.05.2025 since by no stretch of imagination it can be said that calculation of interest on account of delayed payment is unreasonable and/or arbitrary in nature.

17. Mr. Mahata, learned advocate for the respondent State adopted the argument as advanced by Mr. Majumer.
18. This court has meticulously gone through the entire materials as placed before this court. This court has given its due consideration over the submissions of the learned advocates for the contending parties.
19. On careful consideration of the entire materials as placed before this Court, it appears to this court that the present writ petitioner being the successful bidder in terms of the aforementioned NIEI was granted, a letter of intent on 09.12.2020 by the respondent no.3 authority indicating therein the payment schedule and the quantum of payment including the schedule of instalments. It is undisputed that the said letter of intent was issued during the surge of Covid.
20. Materials have been placed before this court that it is the specific case of the writ petitioner that on account of surge of Covid 19, the writ petitioner company became financially handicapped, which is why, the writ petitioner company could not pay the second instalment amount within the stipulated period as has been mentioned in the LoI.
21. Materials have also been placed before this court that the writ petitioner made a series of communications with the respondent no.3 authority expressing its intention to surrender the land as proposed to be allotted to it with a further request to refund the amount of first instalment as paid by it. Admittedly such request was not considered favourably.

22. With the passage of time, probably the writ petitioner company could be able to overcome its financial crisis and thus approached the respondent no.3 authority by issuing a letter dated 30.08.2022 requesting him to allow it to make payment of the second and final instalment without any additional interest burden. Such prayer was not considered favourably by the respondent no.3 authority and the same was indicated vide its letter dated 04.09.2024 and ultimately the representation of the writ petitioner was turned down by issuing the memo dated 06.05.2025 which is the subject matter of the instant writ petition.
23. In course of his argument, Mr. Kar was very vocal with regard to the authority of the respondent no.3 for imposition of penalty. It is the contention of the writ petitioner that by no stretch of imagination, the respondent nos.2 to 4 authorities could impose any penalty charges upon the writ petitioner inasmuch as either in NIEI or in LoI, there was/were no provision/provisions for imposition of penalty as has been wrongly done by the respondent no.3 authority as reveals from the last page of the memo under challenge. It has thus been argued that the memo under challenge had failed to overcome the touchstone of 'reasonableness' as ought to have been observed by an authority within the meaning of Article 12 of the Constitution of India.
24. It has been argued further that the respondent nos.2 to 4 authorities being the functionaries of the State, more specifically; a welfare State ought

to have considered the genuine predicament of the writ petitioner inasmuch as on account of surge of Covid, the writ petitioner was reasonably prevented from making second and final instalment as per the payment schedule as has been mentioned in the LoI.

25. On careful perusal of the letter under challenge more specifically the calculation portion that is at the last page of the writ petitioner, it appears that though the respondent no.3 authority had used the word 'penalty charges' however on careful scrutiny of the table appertaining thereto, it reveals that the respondent no.3 had practically calculated the delayed payment interest over the amount of the second instalment at the rate of 12.5% per annum that too, on simple interest basis.
26. It thus appears to this court that by no stretch of imagination it can be said that the respondent no.3 authority has imposed any penal interest and/or penalty charges on account of failure on the part of the writ petitioner to pay the second and final instalment as per LoI.
27. At this juncture, if I again look to the LoI dated 09.12.2020 as has been issued by the respondent no.3 in favour of the writ petitioner, it reveals that admittedly in such LoI there is clear indication as to what would happen, in the event the allottee being the writ petitioner made default in making payment in terms of schedule of payment.
28. It has been categorically mentioned therein that on account of failure to make payment within the stipulated period, the respondent nos.2 to 4

authority shall have their right to cancel the offer together with forfeiture of the deposited money including the earnest money.

29. On careful perusal of the letter under challenge vis-à-vis the previous letter/memo dated 04.09.2024, it appears to this court that the respondent nos.2 to 4 authority have acted in a very reasonable manner considering the predicament of the writ petitioner on account of surge of Covid 19 and probably on account such reason, the respondent nos.2 to 4 have not exercised their right of forfeiture as has been specifically mentioned in the said letter of intent. It rather appears to this court that the respondent authorities in order to extend maximum benefit to the writ petitioner permitted the writ petitioner to deposit the second and final instalment together with simple interest at the rate of 12.5% per annum.

30. In considered view of this matter, the imposition of interest as has been done by the respondent nos.2 to 4 authority by no stretch of imagination can be said to be unreasonable since on account of non-payment of such second and final instalment, the respondent authorities were deprived of the interest as would be accrued in favour of the respondent authorities over public money.

31. In view the discussion made hereinabove, this court thus finds no unreasonableness and/or arbitrariness in the decision of the respondent no.2 authority while issuing letter dated 06.05.2025.

32. However, considering the fact that the pandemic was extended till 20th February, 2022 and also considering the fact that like any other person including a juristic person the writ petitioner company has also suffered, this court while disposing the instant writ petition directs the respondent no.3 authority not to charge simple interest at the rate of 12.5% per annum over the second and final instalment from 08.05.2021 to 28.02.2022.
33. Liberty is given to the respondent no.3 to recalculate the entire dues as would be payable by the writ petitioner company to the respondent no.2 authority imposing 12.5% simple interest per annum till the day of actual payment excluding the aforementioned period and to communicate the same to the writ petitioner preferably by email within 7 days from the date of communication of the server copy of this order and such revised calculated amount as would be made by the respondent no.3 authority shall have to be paid by the writ petitioner within last day of June, 2025, failing which the respondent nos.2 to 4 authority will be at liberty to act in terms of the LoI dated 09.12.2020 towards cancellation of the offer including the forfeiture of the entire deposit as made by the writ petitioner which also includes earnest money.
34. The time limit as fixed by this court is mandatory and peremptory.
35. Liberty is given to the learned advocate on record of the writ petitioner as well as learned advocate on record of the respondent nos. 2 to 4 to

communicate the server copy of this order to the respondent no.3 forthwith.

The respondent no.3 is directed to act on the server copy of this order.

36. With the aforementioned observation, the instant writ petition being WPA 11072 of 2025 is disposed of.

37. Urgent Xerox certified copy of this order, if applied for, be given to the parties upon compliance of all necessary formalities.

(Partha Sarathi Sen, J.)