

14.07.2025
Sl. No.9
akd

W. P. A. 17572 of 2024

[ACS Engineering and Infra -Vs- The State of West Bengal & Ors.]

Mr. Sabyasachi Mukherjee
Mr. Mukesh Khanna
Mr. Mrinmay Nandy
Ms. Ankita Nandi
Mr. Ranabeer Halder
Ms. Debjani Chakraborty
... .. for the petitioner

Mr. Tapas Kumar Ghosh
Mr. Tanmay Chowdhury
Mr. Biplab Ranjan Bose
... .. for respondent nos.3 to 6
[Bansberia Municipality]

Mr. K. M. Hossain
Mr. Aviroop Bhattacharya
... .. for the State

1. Affidavit-of-service filed in court today is taken on record.
2. The petitioner has preferred the present writ petition, being aggrieved by the inaction on that part of the respondent-Bansberia Municipality in failing to take any appropriate decision on his representation dated 09.08.2023, whereby he sought release of the outstanding amount payable to him in relation to the construction of a stadium named Netaji Sadan.
3. It is the case of the petitioner that he was awarded a tender by the respondent-Bansberia Municipality in the year 2015 to build a stadium 'Netaji Sadan' under the Members of Parliament Local Area Development Scheme (MPLAD). The petitioner claims that he had completed the said project but the concerned municipality is not paying the due amount being Rs. 1,50,00,000/- to the petitioner. The petitioner further contended that there was a considerable delay of 3 to 3 ¹/₂

years from the date of sanctioning the project, due to the failure of the municipality to provide adequate space for construction. As a result, he claims to have suffered significant financial loss.

4. Learned Advocate for the respondent-Bansberia Municipality submits that the writ petition suffers from material deficiencies, inasmuch as the petitioner has not disclosed the total cost allegedly incurred by him towards the construction of the stadium, nor has he specified the amount, if any, already received from the respondent. It is contended that the petitioner has made only a bald and unsubstantiated allegation of having suffered substantial monetary loss, without furnishing any particulars or documentary evidence in support thereof. It is further submitted that the claims raised by the petitioner involve disputed questions of fact, which cannot be effectively adjudicated within the limited scope of writ jurisdiction under Article 226 of the Constitution of India.

5. This Court has heard the arguments advanced by the respective parties and has perused the materials placed on record.

6. It appears that the tender in question was floated sometime in the year 2015. The petitioner claims to have completed the construction work, albeit belatedly, attributing the delay to the respondent-Bansberia Municipality's failure to provide adequate space required for execution of the project. However, the petitioner has not annexed any detailed statement of accounts or supporting documents demonstrating how the alleged financial losses were incurred. A bald

assertion has been made that the petitioner suffered monetary loss to the tune of ₹1,50,00,000/-, without any evidentiary basis. Significantly, the petitioner has not placed on record a copy of the original tender document to disclose the total contract value or the payments, if any, already received by him. Furthermore, no completion certificate has been filed to substantiate the claim that the construction work has been duly completed. In the absence of any such documentation, it is not possible for this Court to ascertain whether any amount remains payable to the petitioner upon completion of the work. The only document relied upon by the petitioner pertains to the refund of mobilization advance, which does not, in any manner, establish that any specific sum is outstanding against the respondent-Municipality.

7. The dispute raised in the present writ petition is, at its core, contractual in nature. The alleged losses claimed by the petitioner remain unquantified and are disputed by the respondent. Determination of such issues would necessarily involve adjudication of disputed questions of fact, which cannot be appropriately undertaken in the exercise of writ jurisdiction under Article 226 of the Constitution of India.

8. In view of the aforesaid facts and circumstances, this Court is not inclined to invoke its discretionary jurisdiction under Article 226 of the Constitution of India in the present matter.

9. Accordingly, the present writ petition is dismissed.

10. Since no affidavits have been filed by the respondents, the allegations made in the writ petition shall not be deemed to have been admitted.

11. There shall be no order as to costs.
12. Let urgent Photostat certified copy of this order, if applied for, be supplied to the parties on usual undertaking.

(Gaurang Kanth, J.)