

20.08.2025
Item No. 963
Ct. No. 42
AN

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

WPA 18539 of 2024

**Ashok Jana
vs.
State of West Bengal & ors.**

Mr. Aniket Mitra

... for the petitioner

Mr. Joydip Banerjee
Mr. Arunava Maiti

... for the State

1. By the present writ petition, the petitioner seeks for cancellation and setting aside of tender notice under memo no. 637/PC dated 8th July, 2024 respondent no.2, Executive Officer, Namkhana Panchayet Samity calling for auction of Ferry Ghat between Bagdanga to Dakshin Durgapur.
2. The petitioner contends that the aforesaid notice is bad in law for the reasons that the entire payment regarding earnest money and bid money has been directed to be paid by cash only. No option has been given for making the payment by bank draft or through NEFT or RTGS or any other mode of online payment which is a departure from the normal practice followed by the Namkhana Panchayet Samity in all bids of previous financial years. Further, Clause 9 of the

notification stipulates that the entire bid amount has to be deposited in the Pachayet Office on the same date of finalization of bid and in the event of non deposit of the same, the entire earnest money shall be forfeited. Such clause is *ipso facto* illegal. Challenging such notification, the present petition is filed.

3. Mr. Aniket Mitra, learned concedes for the petitioner submits that the requirement under the notification to pay earnest money and bid money by cash is illegal and has been adopted to favour certain bidders over the petitioner and other legitimate bidders. The minimum amount of tender is fixed at Rs.19,20,500/-. However, no e-tender was floated by the *Namkhana Panchayet Samity* though the value of the tender is more than one lakh. Such action is violative of the notification issued by the Finance Department, Government of West Bengal No. 3103-F(Y) dated 27th July, 2022. One Apurba Biswas who is an Executive Assistant in Mousuni Gram Panchayet has been permitted to participate in the tender which is also contrary to the notice dated 8th July, 2024. The petitioner challenges the notification precisely on the aforesaid grounds. He seeks for setting aside of the impugned notification of respondent no.2, Executive Officer, Namkhana Panchayet Samity.
4. On the contrary, Mr. Joydip Banerjee, learned counsel representing the State submits that the writ petition

has become infructuous since the tenure of the lease for carrying on the Ferry Ghat in the notice inviting tender has already elapsed on 31st July, 2025. He also indicates that the petitioner never participated in the tender process and as such no right accrued in favour of the petitioner to challenge the notification by way of a writ petition. He seeks for dismissal of the writ petition. He files the report of the Executive Officer, Namkhana Panchayet Samity dated 27th November, 2024 which is taken on record.

5. Since the point of maintainability of the writ petition has been raised by the State, it would be apposite to deal with the same at the very outset.
6. The report of respondent no.2, Executive Officer, Namkhana Panchayet Samity dated 27th November, 2024 clearly manifest that the petitioner did not participate in the subject auction for grant of lease of Ferry Ghat.
7. Now the question arises whether the writ petition is maintainable at the instance of a party, who has not participated in the auction process.
8. The Hon'ble Supreme Court in ***Mani Subrat Jain and Others versus State of Haryana*** reported at **(1977) 1 SCC 486** observed as follows:

"9. The High Court rightly dismissed the petitions. It is elementary though it is to be restated that no one can ask for a mandamus without a legal right. There must be a judicially enforceable right as well as a legally protected right before one suffering a legal grievance can ask for a mandamus. A person can be

said to be aggrieved only when a person is denied a legal right by someone who has a legal duty to do something or to abstain from doing something. (See Halsbury's Laws of England 4th Ed., Vol. I, paragraph 122; State of Haryana v. Subash Chander Marwaha & Ors; Jasbhai Motibhai Desai v. Roshan Kumar Haji Bashir Ahmed & Ors. and Ferris : Extraordinary Legal Remedies, paragraph 198."

9. Further in ***Ayaaubkhan Noorkhan Pathan versus State of Maharashtra and Others*** reported at **(2013)**

4 SCC 465, the Hon'ble Supreme Court observed as follows:

"9. It is a settled legal proposition that a stranger cannot be permitted to meddle in any proceeding, unless he satisfies the authority/court, that he falls within the category of aggrieved persons. Only a person who has suffered, or suffers from legal injury can challenge the act/action/order, etc. in a court of law. A writ petition under Article 226 of the Constitution is maintainable either for the purpose of enforcing a statutory or legal right, or when there is a complaint by the appellant that there has been a breach of statutory duty on the part of the authorities. Therefore, there must be a judicially enforceable right available for enforcement, on the basis of which writ jurisdiction is resorted to. The Court can, of course, enforce the performance of a statutory duty by a public body, using its writ jurisdiction at the behest of a person, provided that such person satisfies the Court that he has a legal right to insist on such performance. The existence of such right is a condition precedent for invoking the writ jurisdiction of the courts. It is implicit in the exercise of such extraordinary jurisdiction that, the relief prayed for must be one to enforce a legal right. In fact, the existence of such right, is the foundation of the exercise of the said jurisdiction by the Court. The legal right that can be enforced must ordinarily be the right of the appellant himself, who complains of infraction of such right and approaches the Court for relief as regards the same. [Vide *State of Orissa v. Madan Gopal Rungta*, AIR 1952 SC 12; *Saghir Ahmad & Anr. v. State of U.P.*, AIR 1954 SC 728; *Calcutta Gas Co. (Proprietary) Ltd. v. State of W.B. & Ors.*, AIR 1962 SC 1044; *Rajendra Singh v. State of M.P.*, AIR 1996 SC 2736; and *Tamilnad Mercantile Bank Shareholders Welfare Assn. (2) v. S.C. Sekar & Ors.*, (2009) 2 SCC 784].

10. A "legal right", means an entitlement arising out of legal rules. Thus, it may be defined as an advantage, or a benefit conferred upon a person by the rule of law. The expression, "person aggrieved" does not include a person who suffers from a psychological or an imaginary injury; a person aggrieved must, therefore, necessarily be one, whose right or interest has been adversely affected or jeopardised. (Vide *Shanti Kumar R. Chanji v. Home Insurance Co. of New*

York, AIR 1974 SC 1719; and State of Rajasthan & Ors. v. Union of India & Ors., AIR 1977 SC 1361).

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17. In view of the above, the law on the said point can be summarised to the effect that a person who raises a grievance, must show how he has suffered legal injury. Generally, a stranger having no right whatsoever to any post or property, cannot be permitted to intervene in the affairs of others."

10. Bearing in mind the aforesaid proposition as laid down by the Hon'ble Court, since it is found from the materials that the petitioner has not participated in the auction process, hence he fails to establish that he suffered any legal injury or he has any judicially enforceable right. A person, who is a stranger to the subject auction process, cannot be permitted to intervene or meddle with the right of others.
11. Since the petitioner has not participated in the bid and no legal right accrued in favour of the petitioner, the present writ petition is not maintainable in the eye of law at his instance and the same is liable to be dismissed.
12. In the aforesaid backdrop, the point of challenge to the impugned notification also becomes inconsequential.
13. Accordingly, the writ petition being no. **WPA 18539 of 2024** stands dismissed.
14. Consequently, connected applications, if any, also stand dismissed.
15. Interim orders, if any, stand vacated.
16. There will be no order as to costs.

17. Urgent certified photostat copy of this order, if applied for, shall be given to the parties as expeditiously as possible on compliance of all necessary formalities.

(Bivas Pattanayak, J.)