

20.08.2025
Court No.13
Item No. 6
AP

MAT 1328 of 2025
With
CAN 1 of 2025

Onenine Trading and Contracting Establishment
Vs.
State of West Bengal & Ors.

Mr. Billwadal Bhattacharyya, Senior Advocate
Mr. Firdous Samim
Ms. Gopal Biswas
Mr. Anish Kumar Mukherjee
Mr. Hasamuz Zaman Molla

... for the Appellant.

Mr. Amitabrata Roy
Mr. Nilatpal Chatterjee
Mr. Arkadipta Sengupta

... for the State.

Mr. Uttam Kumar Bhattacharyya
... for the Respondent Nos.2 to 5.

Mr. Partha Sarathi Bhattacharya, Senior Advocate
Mr. Tapash Kumar Mondal
Mr. Partha Sarathi Basu

... for the Respondent No.6.

1. The appeal is directed against an order dated 2nd August, 2025 passed by a Single Bench of this Court. The writ petition was taken up after it was initially deferred on the ground of absence of urgency. On the day when the writ petition was taken up by the Singe Bench, ignoring a report of the Zilla Parishad disposed of the writ petition.

2. The brief facts relevant to the case are that the appellant and the writ petitioner/private respondent participated in an e-auction conducted pursuant to a notice dated 20th February, 2025 issued by the Purba Medinipur Zilla Parishad for auctioning the Talpati -

Kakdwip via Kachuberia (Inter-District) Ferry ghat for a period of three years.

3. The appellant was the successful bidder, who quoted Rs.43,05,000/- per year each for three years. The appellant, however, could not deposit the entire money in one go within ten days as stipulated in the e-auction notice. The appellant paid a sum of Rs.25,00,000/- in installments to the Zilla Parishad.

4. Payment of bid amounts in installments were admittedly permitted after the auction as a practice by the Zilla Parishad and money receipts were issued to the appellant against each installment. The respondent/writ petitioner was running the Ferry for 17 years prior to the present auction. After coming second in the e-auction process, the writ petitioner/private respondent withdrew his EMD by letter in writing dated 21st April, 2025. Mr. Partha Sarathi Bhattacharya, learned senior counsel for the writ petitioner/private respondent submits that withdrawal of EMD was not voluntary and at the instance of the respondent authorities.

5. Be that as it may, the writ petitioner/private respondent had, therefore, disqualified himself from the auction process as a whole.

6. The Single Bench placing reliance on the terms and conditions of the bid (Gurutopurna Nirdeshabali), found that there was no scope for granting installments to any

successful bidder in depositing the bid amount and the time period of ten days stipulated thereunder was mandatory. The Single Bench thereupon set aside the letter of intent issued in favour of the appellant and directed the respondent/Zilla Parishad to accept the bid of the writ petitioner/private respondent.

7. This Court finds more than one error in the impugned order and judgement. If indeed the terms and conditions of the tender were to be complied strictly by all parties while cancelling the appellant's tender for non-deposit of the bid amount within ten days, the Single Bench could not have correspondingly ordered the tender to be granted in favour of the writ petitioner/private respondent. The latter had withdrawn his EMD and had disqualified himself from auction process as a whole.

8. The second error committed by the Single Bench as found by this Court is that the Zilla Parishad in the past notwithstanding the terms and conditions of tender has allowed the bid amount of yearly lease rent to be paid in installments, to the writ petitioner/private respondent, who was running the Ferry for seventeen years. A report was filed to this effect before the Single Bench which has not been factored in the impugned order.

9. Sauce for the goose is sauce for the gander.

10. If the writ petitioner/private respondent was permitted installments to put in the bid amount, the

appellant is equally entitled to do so. It is now well settled, inter alia, in the decisions of the Supreme Court in the case of ***Tata Cellular Vs. Union of India*** reported in **(1994) 6 SCC 651** that an administrative authority and an employer in a tendering process is entitled to “play in the joints”. Interference in tender processes by Courts under Article 226 of the Constitution of India is generally discouraged unless grave and extremely impropriety is found.

11. This Court is of the prima facie view that the award of the tender to the appellant and acceptance of the bid amount in installments as a practice followed in the Purba Medinipur Zilla Parishad is not out of the ordinary.

12. The installments are granted after the e-auction process was conducted, where the highest bidder is already determined. Given a ferry operation is based on collection of fare from passengers, it may be difficult for any ferry operator to cough up the entire bid amount in one go. These are ground realities which a writ Court cannot sit in appeal over.

13. What is surprising to this Court is that the writ petition was disposed of without calling for affidavits from the respondents.

14. The Zilla Parishad report was not made available to either the writ petitioner or the appellant. The report is placed before this Court and it is submitted that it was placed before the Single Bench.

15. For the reasons stated hereinabove, the impugned order shall stand set aside. The appellant shall continue to operate the Ferry since he was the successful bidder. Since the Zilla Parishad post auction has granted installments to the appellant, they may continue to accept the same.

16. Let affidavit-in-opposition be filed to the writ petition by the writ petition/private respondent within a period of three weeks from date. Reply, if any, be filed two weeks thereafter.

17. Keeping the question of maintainability of the writ petition open, the grant of tender in favour of the appellant shall abide by the final result of the writ petition.

18. With the aforesaid directions, the appeal is disposed of. Consequently, all connected pending applications, if any, are also disposed of.

19. There shall be no order as to costs.

20. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)

(Ajay Kumar Gupta, J.)