

ML 130
16.01.2025
Ct. 14
BP/AGM

**In The High Court at Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

W.P.A 23894 of 2024

**Asit Kumar Aich
-versus
The State of West Bengal & Ors.**

**Mr. Kamalesh Bhattacharya, Sr. Adv.
Mr. Rezaul Hossain.
Mr. Anirban Saha.
Mr. Parvez Hossain.
...For the Petitioner.**

**Mr. Suman Sengupta.
Mr. Gaurav Das.
... For the State.**

1. The petitioner is aggrieved by the order passed by the Deputy Secretary, Drug & Equipment, Department of Health and Family Welfare, Government of West Bengal dated 2nd March, 2020 rejecting the prayer of the petitioner for releasing the money claimed by the petitioner.
2. The petitioner prayed for waiver of the penalty clause by which a sum of Rs. 48,92,208/- stood deducted from the bill of the petitioner on account of delay in supply of goods.
3. The petitioner claims to have been authorized by the original contractor to supply the goods and the said goods were duly accepted by the State authority. It has been submitted that payments were made directly to the petitioner.
4. It appears that there was no privity of contract between the petitioner and the State respondents.
5. The tender in question pursuant to which the goods were supplied is of the year 2014. Because of the

delay in supply of goods, the contract of the contractors stood terminated. Certain penalty was imposed. It has been submitted that the penalty amount was deducted from the subsequent supply made by the petitioner.

6. The payment which has been deducted is on account of the contractual obligation in between the parties.
7. The Court is of the opinion that the writ Court will not be the competent forum to decide upon the contractual obligation in between the parties.
8. This Court is particularly not inclined to entertain the prayer of the petitioner more so because of the reason that there are several disputed questions of facts which are to be adjudicated to grant relief in favour of the petitioner.
9. It will be open for the petitioner to approach the competent forum for redressal of his grievances, if so advised.
10. The writ petition fails and is hereby dismissed.
11. Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Amrita Sinha, J.)