

Item No.07
25.07.2025
Court. No. 36
Cp/S. Biswas

RVW 331 of 2024
With
CAN 1 of 2024
With
CAN 2 of 2024
In
WPA 10382 of 2024

M/s Debnath Construction
Vs.
The State of West Bengal & Ors.

Mr. Arka Maiti
Ms. Saloni Bhattacharya
Ms. Gulsanwara Pervin

..... for the Applicant.

Affidavit of service is taken on record.

Despite service, none appears for the respondents.

CAN 1 of 2024 is an application for condonation of delay of 27 days in filing the review application. Considering the ground stated in the application, this Court finds that the petitioner has been able to explain the reasons for such delay to the satisfaction of the Court.

Accordingly, CAN 1 of 2024 is allowed.

CAN 2 of 2024 is an application for stay of the order of this Court, dated August 7, 2024. As the Court had dismissed the writ petition, the question of stay of the said order does not arise.

The review application is taken up for consideration. The Court finds that the grounds for review of the order dated August 7, 2024 are that even after the dismissal of the

writ petition and upon the finding of the Court that the respondent had the right to cancel the tendering process and not accept the rate quoted by the petitioner at zero per cent management fee towards the share of the petitioner in the execution of the work was a reasonable ground, sometime in 2024 as well, in respect of another similar work the contractor's bid at zero percent management fee has been accepted. On the ground of discrimination the application has been filed seeking review of the order.

Ground no. II states that between 2018 and 2024 as well, zero percent rates towards management fee were accepted. The petitioner tries to urge the point of discrimination and arbitrariness on the part of the respondents in dealing with the petitioner's bid.

Having gone through the order of this Court, this Court finds that the cancellation of the entire tendering process was under challenge in the writ petition. The writ petition was dismissed on the ground that the tendering authority had every right to cancel a tender process. No right had crystallized in favour of the petitioner as neither a letter of acceptance nor a letter of award of tender had been given to the petitioner. A report was filed on behalf of the tendering authority before the Court through the learned advocate appearing for the respondents in which an explanation was given to the effect that if the bidder/contractor did not keep any margin towards his fees and undertook to execute the work without claiming any fees, either the work would be compromised or the daily

wages of the workers would be deducted or the statutory dues and obligations would remain unpaid. This Court was of the view that the explanation was reasonable.

The power of judicial review is limited to examining illegality in the decision of the authority. The Court was of the view that the petitioner did not have any legal or statutory right to be awarded the tender and the authority was permitted under the law to cancel the tender process, interference was not called for. However, it was made clear that if the authority floated any other tender for the self-same work, the petitioner should be allowed to participate. It is not that another tender for the self-same work was floated and the bidder who had quoted zero percent management fee, had been accepted. Had that been the case, the question of arbitrariness and discrimination would arise.

Accordingly the review application is disposed of without any interference. Connected application, if any, also stands disposed of.

However, the disposal of the review application will not prevent the petitioner approaching the appropriate forum as and when cause arises.

(Shampa Sarkar, J.)