

Dd 94 20.01.2025

MAT/2208/2024
With
IA NO: CAN/1/2024, CAN/2/2024

APIL KUMAR SINHA
VS.
THE STATE OF WEST BENGAL AND ORS.

Mr. Sumit Ray,
Mrs. Sarda Sha, Advocates
... .. For the Appellant

Mr. Sirsanya Bandopadhyay,
Mr. Debopriyo Karan, Advocates
... .. For the State

Md. Nauroz Rahber,
Muhammad Jawwad, Advocates
.. .. For the respondent no. 8

1. Appeal is directed against an order dated August 20, 2024 passed in WP 20873 of 2024 by which the writ petition of the appellant was dismissed.
2. CAN 2 of 2024 is an application seeking condonation of delay of 107 days in making and filing the appeal.
3. Department reports a delay of 79 days.
4. For the ends of justice, the causes shown in the application for condonation of delay are accepted as sufficient. Delay in making and filing the appeal is condoned. CAN 2 of 2024 is **allowed**.
5. By consent of the parties, appeal is taken up for final hearing. Pursuant to our order dated January 16, 2025, State through the District Magistrate informed the Gram Panchayat as to the pendency of

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the appeal. Gram Panchayat is represented, so also is the State.

6. Subject matter of the appeal relates to a tender process. Materials placed on record establish that, Karandighi-I Gram Panchayat issued a notice inviting e-tender for works contract on July 16, 2024. Eight items of works were tendered for. Concerned Gram Panchayat also issued another e-tender for works contract involving 10 other items on July 16, 2024.
7. Court is informed that the two first calls did not fructify. Gram Panchayat issued a notice dated July 19, 2024 claiming it to be the second call of the notice inviting tender. Only one work was tendered for in the second call. Second call contains various terms and conditions for a participant to comply. The relevant clause is as follows:-

"(4) Bidder must upload Local Pradhan/Municipality Residential Certificate with Colour Passport Size Photo Copy on Attested pradhan."

8. Concerned Gram Panchayat also made a second call in respect of another work involved in the two first calls as noted above earlier. The second call was on July 22, 2024. The second call also contains the same clause as the earlier two calls.
9. It is the contention of the appellant that, the appellant obtained requisite documents in terms of Clause 4. Once, the appellant sought to participate in the tender process in the second call on the basis of such original documents, his participation in the second call in the other works was disallowed on the

ground that he did not possess the original document of residence in terms of Clause 4.

10. Learned advocate for the appellant submits that the appellant submitted the original documents of residence in terms of Clause 4 in respect of the second tender of one of the works. According to him, he cannot be called upon to submit the same original document or other again in respect of the subsequent second call of other works. Moreover, the Pradhan of the Gram Panchayat was not issuing any fresh residence certificate for submission. He points out that, Pradhan of the Gram Panchayat is a part of the Tender Evaluation Committee. He also points out that contemporaneously, appellant made a representation to the authorities.
11. Learned advocate appearing for the appellant submits that, appellant was issued a show cause notice for filing the writ petition and was ultimately black listed. He also points out that issue of black listing is a subject matter of a separate writ petition.
12. Learned advocate appearing for the Gram Panchayat submits that, the entire tender process is now complete with work orders issued and, in fact, work executed. He submits that, works concerned in the tender process are time bound.
13. Learned advocate appearing for the Gram Panchayat submits that, a tenderer is not required to submit original residence certificate in respect of Clause 4 in the every work included in the concerned tender. In the facts of the present case, appellant did not participate in the second call of the tender process apart from one tender item.

14. In the facts of the present case, the concerned Gram Panchayat undertook a tender process in aggregate of 18 items of works. Eight items of works were covered by the notice inviting tender dated July 16, 2024 bearing Memo No. 175/KDI-1/2024. Ten items of works were covered under notice inviting e-tender dated July 16, 2024 being Memo No. 176/KDI-1/2024.
15. The first call in respect of the two tender processes was cancelled. Concerned Gram Panchayat undertook a second call. Second call dated July 19, 2024 vide Memo No. 190/KDI-1/2024 relates to Serial No. 10 of Memo No. 176/KDI-1/2024 dated July 16, 2024. Second call dated July 22, 2024 being Memo No. 205/KDI-1/2024 relates to Serial No. 1 of Memo No. 175/KDI-1/2024 dated July 16, 2024.
16. The Two second calls are in respect of the two first calls, as noted above, and are by the same Gram Panchayat. Both the second calls contain identical terms and conditions as noted above.
17. Clause 4 of such terms and conditions requires a participant to upload local Pradhan/ Municipality residence certificate with colour Passport Size Photo Copy attested by Pradhan.
18. Court is informed that the Pradhan of the concerned Gram Panchayat is one of the members evaluating the tenders.
19. It is the stand of the Gram Panchayat before us that, uploading of one residential certificate in the tender process will be good for the subsequent items of the same tender process.

20. In the facts of the present case, the appellant before us obtained the requisite residential certificate and uploaded the same in respect of one of the tender processes. He claims that, since the Pradhan did not issue a subsequent residential certificate, he could not participate in the second item of the tender process.
21. In view of the stand taken by the Gram Panchayat before us that one residential certificate of a bidder will be good enough and substantial compliance of Clause 4 of the tender process, for the other works included in the same tender process, we dispose of the appeal by placing on record such stand of the Gram Panchayat. District administration will also ensure that, a tenderer is not deprived from participating in any ensuing tender of this Gram Panchayat, simply on the basis of absence of a residential certificate, so long he produces a residential certificate in the original, in respect of at least one of the works covered under the tender process.
22. We clarify that, in the event, tender process undertaken by the Gram Panchayat covers let say, 10 items, then 10 original residential certificate need not be uploaded. One original residential certificate will be sufficient for the purpose of allowing the tenderer to participate in respect of the other items of works covered under the same tender process. Gram Panchayat, no doubt, will be at liberty to inspect the original residential certificate in respect of all the items of works

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covered under the tender process at time of evaluation of the tender.

23. Issue of blacklisting is kept open to be decided in the pending proceeding challenging the same.

24. With the aforesaid observations, MAT/2208/2024 along with connected applications are **disposed of**.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)