

**CIRCUIT BENCH OF CALCUTTA HIGH COURT
AT JALPAIGURI
APPELLATE SIDE**

**30.01.2025
Sl. No.50
Crt.02
b.r.**

W.P.A. 2706 of 2024

**Simrath Enterprise
Vs.
The State of West Bengal & Ors.**

**Mr. Deborshi Dhar
.... for the petitioner.**

**Mr. Nabankur Paul
Ms. Rima Sarkar
.... for the State.**

Affidavit of service is already on record.

Mr. Deborshi Dhar, learned advocate, appears for the petitioner.

Mr. Nabankur Paul, learned State advocate with Ms. Rima Sarkar, learned State advocate appear for State-respondent nos. 1 to 3.

The rest of the respondents are not represented.

Siliguri Mahakuma Parishad floated a tender on **August 10, 2023 at page-16** to the writ petition for the purpose of collection of Toll at the relevant Toll Plaza. The petitioner participated and ultimately became a successful tenderer. Petitioner was declared as the **L-1 Bidder**. The petitioner has deposited the

earnest money under the tender terms at **pages 19 and 20** to the writ petition. The amount deposited by the petitioner was **Rs. 5,94,000/-** on **December 19, 2023**. No work order was issued in favour of the petitioner. Subsequently, the petitioner found a second tender process was issued on **December 4, 2024 at page-21** to the writ petition.

The petitioner being the successful bidder in the first tender process is eligible to be issued with the necessary work order since he has already deposited the sum as claimed by the authority. Petitioner submits under the second tender process, no one has participated in the tender. The petitioner claims that the work order should be issued in favour of the petitioner.

Mr. Nabankur Paul, learned counsel appearing for the respondent nos.1 to 3 submits that the currency of the tender contract under which petitioner was selected was one year which had already expired in **December 20, 2024**. After the said contract period had expired, Siliguri Mahakuma Parishad issued the second tender notice.

After considering the rival contentions of the parties and upon perusal of the records, this Court is of the view that even though the petitioner has been declared as **L-1 Bidder**, the authority had a discretion

to issue or not to issue a work order in favour of the petitioner and the authority also had a discretion to go for further tendering process. Just by declaring **L-1 Bidder** no vested right had accrued in favour of the petitioner unless the work order is issued. However, it is equally true that the Siliguri Mahakuma Parishad has accepted a sum of **Rs. 5,94,000/-** from the petitioner on account of the said tender process but since the said tender process has not proceeded with any further, the Siliguri Mahakuma Parishad is liable to refund the sum to the petitioner.

The transaction being totally commercial the Siliguri Mahakuma Parishad while returning the money must pay interest to the petitioner.

Accordingly, the respondent no.5 shall immediately return the said sum of **Rs. 5,94,000/-** along with interest at the rate of **6 per cent per annum since December 19, 2023** till the actual date of tendering of the amount to the petitioner but positively within a period of **two weeks** from the date of communication of this order.

The petitioner shall communicate this order to the **respondent nos. 5 and 6** forthwith along with the particulars and details of its bank accounts where the amount shall be credited by the respondent no.5.

Since affidavits are not called for, the allegations made in the writ petition are deemed not to have been admitted by the respondents.

However, the petitioner shall be at liberty to participate in further tender process if such tender process are called for by the authority subject to the petitioner being eligible to participate therein in accordance with law.

With the above observations, this writ petition **WPA 2706 of 2024** stands **disposed of**, without any order as to costs.

Urgent Photostat certified copy of this order, if applied for, be supplied to the parties subject to compliance with all requisites formalities.

(Aniruddha Roy, J.)