

(2017) 07 CAL CK 0046
In the Calcutta High Court
Case No : 4999 of 2017

Prabal Kumar Basu

APPELLANT

Vs

The State of West Bengal & Ors.

RESPONDENT

Date of Decision : 19-07-2017

Acts Referred:

Citation : (2017) 07 CAL CK 0046

Hon'ble Judges : Biswanath Somadder, Sankar Acharyya

Bench : DIVISION BENCH

Advocate : Pantu Deb Roy, Subrata Guha Biswas

Final Decision : Dismissed

Judgement

1. The observation made in our order dated 7th July, 2017, is required to be reproduced hereinbelow:

"The orders reveal that even on 5th June, 2017, none appeared to prosecute the matter on behalf of the applicant/ appellant. Today also, the applicant/appellant remains unrepresented even at the time of second call, although the learned advocate representing the State is present. As a last opportunity, we adjourn the matter till day after tomorrow (19.7.2017). If no one turns up on the next date, this Court will have no option but to pass appropriate orders in the absence of the applicant/appellant."

2. Even today, at the time of second call, none appears on behalf of the applicant/appellant.

3. The appeal arises out of a judgment and order dated 4th April, 2017, passed by the learned Single Judge in WP 7514 (W) of 2017 (Prabal Kumar Basu vs. The State of West Bengal & Ors .). The appellant before us was the writ petitioner.

4. The writ petitioner had approached the First Court against an order dated 23rd February, 2017, passed by the Executive Officer, Patashpur-I Panchayat Samity, pursuant to an earlier order passed by the High Court in a previous writ petition, being WP 3733 (W) of 2016. According to the learned advocate for the writ petitioner, the impugned order dated 23rd February, 2017, was wholly illegal and arbitrary and the said order had been passed by adopting unfair and unjust means and in an unwarranted manner by the concerned authority.

5. The learned Single Judge appears to have taken into consideration the respective contentions of the parties and dealt with the matter at length. The learned Single Judge finally proceeded to dispose of the writ petition with the following order:

"Considering the discussion as above, in my considered view, keeping the petitioner as a black listed one is bad in law. Therefore, the black listing order dated 23rd February, 2017 cannot be sustained in the eye of law. As a result the black listing order dated 23rd February, 2017 is quashed and set aside.

I direct the petitioner to participate in the future tender process if he is so advised. In respect of the present re-tender since the process has already been completed only by virtue of the interim order the respondents were restrained from opening the financial bid, therefore, in my considered view, the petitioner has no scope to participate in the re-tender process at this stage. Accordingly, the interim order passed on 21st March, 2017 thereby restraining the respondent authority to open the financial bid in respect of the re-tender notice dated 7th March, 2017 is modified thereby directing the respondent authority to take step in accordance with law to open the financial bid of the re-tender notice dated 7th March, 2017. Furthermore, the petitioner is at liberty to participate in future tender if he is so advised after fulfilling all the criteria. The respondents are directed to refund the earnest money deposited against e-tender notice dated 19th January, 2017 amounting to Rs.23,000/- in bank draft within seven days from the date of communication of this order.

The petitioner is also directed to contact the respondent authority to get back the earnest money pursuant to the direction of this Court.

With this direction, this writ petition is disposed of.

No order as to costs."

6. Even a bare perusal of the impugned judgment and order reveals no palpable infirmity of reasoning or perversity, which would warrant an

interference in an Intra-Court Mandamus Appeal. Unless palpable infirmities or perversities are notice, no interference is usually warranted in such cases. It is also evident that the impugned judgment and order is supported with cogent reasons.

7. As such, the appeal and the application for stay are liable to be dismissed and stand accordingly dismissed.

8. Urgent photostat certified copy of this order, if applied for, be given to the learned advocates for the parties.