
(2019) 01 CAL CK 0088

In the Calcutta High Court

Case No : Writ Petition (W.p) No. 677(W) Of 2019

Sekh Ayeb Nabi & Ors.

APPELLANT

Vs

State Of West Bengal

RESPONDENT

Date of Decision : 24-01-2019

Acts Referred:

Citation : (2019) 01 CAL CK 0088

Hon'ble Judges : Subrata Talukdar , J

Bench : Single Bench

Advocate : Kalimuddin Monda, Sabyasachi Mukhopadhyay, Pranab Halder, Pranjali Pal, Swapan Kr. Dutta, Debjani Mitra

Judgement

Party/Parties is/are represented in the order of their name/names as printed above in the cause title.

This matter has been taken on Board today on the ground of utter urgency as mentioned by Mr. Mondal, Learned Counsel for the petitioners. The urgency stems from the fact that a tender process has been initiated by the Respondent No.5/the Prodhan, Koshigram Gram Panchayat (GP) in issue, Katwa, Dist.-Purba Burdwan.

Mr. Mondal submits that the tender was advertised by way of a Notice Inviting Tender (NIT) dated 26th December, 2018. The NIT was rectified qua the date of sale of Tender Forms vide a Corrigendum dated 2nd January, 2019 and the new date for sale of Tender Forms was fixed on 7th January, 2019 instead of 4th January, 2019.

It is the specific case of the petitioners that pursuant to the Corrigendum dated 2nd January, 2019, the petitioners claiming to be eligible to participate in the tender works, arrived at the office of the Respondent No.5/the Prodhan on 7th January, 2019 at the appointed time. However, inspite of being told to wait for delivery of the tender forms on that day, i.e. the 7th of January, 2019, as more fully stated at paragraph 7 to the writ petition, the petitioners were ultimately

denied delivery of tender forms.

The further case is made out by the petitioners is that one Nurun Islam Seikh/ the Respondent No.8 was seen to enter the office of the Respondent No.5/the Prodhan and exit from the office with the tender papers.

Assailing such utterly capricious exercise, as above, in the tender forms distribution process, the present writ petition has been filed.

The petitioners then filed several representations before the local administration, i.e. the Sub-Divisional Officer (SDO), Katwa, Purba Burdwan and the Block Development Officer (BDO), Katwa-I, Purba Burdwan/the Respondent Nos.3 and 2 respectively to the writ petition. Even the members of the GP in issue/ Koshigram GP made a complaint before the BDO, Katwa-I/the Respondent No.2 seeking transparency in the tender process.

On behalf of the State-Respondents Mr. Dutta, Learned Senior Government Advocate, appears and takes the stand that the tender process has been initiated on behalf of the Respondent No.5/the Prodhan, who is an independent authority qua such tender process. The other point taken by Mr. Dutta is that three writ petitioners have joined together in a single petition which is an exercise not maintainable in law.

Having heard the parties and considering the materials placed, this Court is satisfied that the petitioners have been able to make out a prima face case warranting the grant of interim relief.

Accordingly, there shall be an interim order in terms of prayer (i) of the writ petition until the end of February, 2019 or, until further orders, whichever is earlier.

For the benefit of this discussion prayer (i) of the writ petition requires to be set out in full:

"i) Interim order directing the concerned respondent authorities not to issue any work order in favour of the said Respondent No.8 pursuant to Tender in question issued vide notices inviting tender no. 25, 26, 27 dated 26th December 2018 till the disposal of the writ application as otherwise your petitioner would suffer irreparable loss and injury."

The petitioners shall serve a copy of this order on the Respondent No.5/the Prodhan as well as the Private Respondent No.8 and file a comprehensive Affidavit of service on the next date.

Considering the urgency of the matter and in view of the tender process having been already initiated in a capricious manner as discussed above, this Court in the facts of the present case, permits the petitioners to reverify the Affidavit portion and also put in the deficit Court fees by the next date.

The petitioners shall also deposit costs assessed at Rupees Two Thousand only to

the High Court Law Clerks' Association. The documents in proof of the deposit as directed above to be produced on the next date.

Let the matter return under the same heading "Mentioned Matters" on 28th February, 2019.

Let a plain photocopy of this order, duly counter signed by the Assistant Registrar (Court), be given to Learned Advocate for the parties on usual undertakings.