

D/L
Item No. 41
22.04.2025
KOLE

WPA 2227 of 2025

**Subhadip Construction & Anr.
-Vs.-
The State of West Bengal & Ors.**

*Mr. Ramkrishna Bhattacharyya,
Mr. Kaushik Chowdhury,*

...for the petitioners.

*Mr. Subhendu Bandopadhyay,
Mr. Arindam Mitra,*

...for the State.

*Mr. Srijan Nayek,
Ms. Rituparna Maitra,
Mr. R. Agarwal,*

...for the Municipality.

Affidavit of service filed by the petitioner in court today
be kept with the records.

The petitioner has challenged the notice inviting e-tender No. MAD/ULB/BLGT/PW/13/24-25 issued by the Respondent Municipality for the purpose of construction and up-gradation of different cement concrete roads in various Wards within Balurghat Municipality. The petitioner has participated in the said tender process. He was not one of the successful bidders and the tender was allotted to other bidders. The petitioner further alleges that the Corporation has illegally awarded the tenders and he has been discriminated against the other tenderers.

It is the case of the petitioner that the said tender process was conducted by the authorities in two parts technical bid and financial bid. After opening the said tender it was found that the petitioner were not allowed to participate in the financial bid stage on the ground that the requisite documents namely, the updated ESI Challan and Audit report

– had not been furnished in accordance with the stipulations set forth in the tender documents issued by the Balurghat Municipal Authorities. In respect of the Audit Report, the petitioner had submitted documents evidencing the filing of their income tax returns, asserting that their financial standing did not attract the mandatory requirement of an Audited balance sheet under the provisions of the Income Tax Act. With regard to the ESI compliance, the petitioner duly provided their ESI Registration Number at the time of tender submission. They have explained that there was no statutory mechanism for procuring an updated ESI Challan for the month of December, 2024 prior to the conclusion of that money. Given the deadline for submission of tender document was 27th December, 2024, the Challan for December could only have been generated and deposited subsequent to that date. In the petitioners effected payments towards the ESI dues for December on 8th January, 2025.

The petitioner has filed the present writ petition without any material particulars showing that how the Municipality has arbitrarily or in a mala fide manner allotted the tender to successful bidders. No document has been put on record to show any malice on the part of the Municipality in awarding the tender to the successful bidder on their own whims and fancies. The petitioner has failed to produce any document showing any such favouratism and arbitrary action on the part of the Municipality in awarding the tender to the successful bidders. The petitioner has only drawn attention of this Court to a letter written on 09.01.2025 to the Chairman of

the Municipality wherein the petitioner himself acknowledges that one of the criteria is to provide up-to-date ESI Registration with Challan but he has applied for Registration for ESI only after the issuance of NIT and the registration certificate just before the closing date of submission i.e., 26th December, 2024. Hence, it was not possible for the petitioner to submit the ESI Challans along with his tender documents. It shows that the Petitioner submitted the bid with out relevant documents. The petitioner has further stated that other bidders have also not provided adequate documents but their bid was considered. However, no document whatsoever is placed on record to substantiate the said allegation. The petitioner is unable to show any document before this Court to substantiate his allegation that the Municipality has acted in an arbitrary and mala fide manner in awarding the tender to the successful bidders.

The present writ petition is bereft of any merit and the same is dismissed since the petitioner himself is not able to meet the eligibility criteria of providing ESI certificate and Challans since the same was applied in a belated stage.

In view of the above, the writ petition being No. WPA 2227 of 2025 is dismissed.

Urgent photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Gaurang Kanth, J.)