

04 11.07.2023
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CALCUTTA HIGH COURT
IN THE CIRCUIT BENCH AT JALPAIGURI

W.P.A. 1268 of 2023

Kalidas Ghosh

-vs-

The State of West Bengal & Ors.

Mr. Satrajit Sinha Roy

....for the petitioner.

Mr. Bikramaditya Ghosh,
Mr. Momenur Rahman

....for the State.

Mr. Swarup Paul,
Mr. Deborshi Dhar

....for the respondent nos.4 to 6.

The writ petition is taken up for consideration in presence of the learned advocates representing the petitioner, State respondent and respondent nos.4 to 6.

In the writ petition though Letter of Award (LOA) dated 15th July, 2022 is under challenge but Mr. Sinha Roy, learned advocate representing the petitioner submits that the date of impugned Letter of Award has been wrongly stated in the prayer as 11th May, 2023.

At the threshold Mr Paul, learned advocate representing the respondent nos.4 to 6 has raised question of maintainability of the writ petition before the Circuit Bench at Jalpaiguri on the ground that impugned Letter of Award has been issued by the concerned authority in connection with establishment, operation, maintenance and management of

mechanized laundry facility at Kharagpur Sub-Divisional Hospital on PPP Mode.

In order to combat this preliminary point the learned advocate representing the petitioner has drawn attention of this Court to page 22 of the writ petition wherefrom it appears that the issue which has been raised in the writ petition is in connection with establishment, operation, maintenance and management of mechanized laundry facility at North Bench Medical College and Hospital.

Having considered the rival submissions made on behalf of the respective parties, this Court first needs to address the issue of maintainability of this writ petition before the Circuit Bench at Jalpaiguri.

In rule 4 of Calcutta High Court (Circuit Bench at Jalpaiguri) Rules, 2019 it has been provided that cases originating in the district shall ordinarily be instituted in and decided by the Circuit Bench at Jalpaiguri. On the anvil of Rule 4 of the aforesaid rules and taking into consideration the document which is annexed at page 22 annexure P1 to this writ petition it appears that for providing mechanized laundry facility at North Bench Medical College and Hospital letter of award was issued which is the subject matter in the writ petition. Therefore the contention raised on behalf of the respondent nos.4 to 6 relating to maintainability of this writ petition before

the Circuit Bench at Jalpaiguri is negated.

The writ petition needs to be heard by the Circuit Bench at Jalpaiguri.

However, during course of hearing it has been brought to the notice of this Court that the Letter of Award dated 15th July, 2022 issued by the Secretary, PPP Health and Family Welfare Department, Government of West Bengal is under challenge.

Such contention relating to subject matter of challenge is disputed by the learned advocate representing the petitioner. However, petitioner has admitted that there is typographical mistake which has occurred in the prayer of the writ petition and the correct date of Letter of Award has not been spelt out therein.

It has also been submitted on behalf of the respondent nos.4 to 6 that the Letter of Award dated 15th July, 2022 has been given effect to and the private respondents have also taken steps for providing necessary infrastructure in order to commence the work.

In view of aforesaid submissions made by the respective parties it appears that the issue involved in this writ petition needs to be decided upon affidavits.

Let affidavit-in-opposition be filed within three weeks from date, affidavit-in-reply, if any thereto, be filed within one week thereafter.

The writ petitioner shall be at liberty to mention the matter before the Circuit Bench for hearing after the time fixed hereinabove for exchanging of affidavits.

The impugned Letter of Award which has been issued in favour of the private respondents shall abide by the result of the writ petition.

Affidavit-of-service filed on behalf of the petitioner is taken on record.

The parties shall act on the basis of the server copy of the order downloaded from the Official Website of this Court.

(Saugata Bhattacharyya, J.)