

Constitutional Writ

Present : The Hon'ble Mr Justice Jayanta Kumar Biswas

Judgment on 26.08.2010

W.P.No.17913(W) of 2010

M/s. Moonlight Enterprise & Ors.

-vs-

State of West Bengal & Ors.

Points:

Scope of writ-Cancellation of work order whether can be set aside on the ground that it is vitiated by blatant arbitrariness.-Constitution of India Art 226

Facts:

In the tender process for supply of cooked diet the petitioners were successful, and accordingly the work order dated July 30, 2010 was issued giving them the work for the period from August 1, 2010 to July 31, 2011. The work order has been cancelled by the order of the Chief Medical Officer of Health, Malda dated August 4, 2010.

Held:

The work order has been cancelled citing some undisclosed unavoidable circumstances.. There can be no doubt that the cancellation order in this case also is liable to be set aside on the ground that it is vitiated by blatant arbitrariness.

Para 3

The appropriate authority of the Government of West Bengal should look into the matter and take appropriate action against the official who has issued the order mechanically without examining the previous orders of this Court and has thus generated this absolutely unnecessary litigation. Para 5

Mr. Sarajit Sen, Mr. Tapas Singha Royfor the petitioners

Mr. Supriya Basu, Mr. Ashim Kumar Halderfor the State

The Court : The petitioners are questioning the order of the Chief Medical Officer of Health, Malda dated August 4, 2010 (at p.51) cancelling the work order dated July 30, 2010.

2. In the tender process for supply of cooked diet the petitioners were successful, and accordingly the work order dated July 30, 2010 (at p.46) was issued giving them the work for the period from August 1, 2010 to July 31, 2011.

3. The work order has been cancelled citing some undisclosed unavoidable circumstances. Identical orders cancelling identical work orders were challenged before this Court by filing petitions under art.226 and several orders have been made by this Court quashing the orders cancelling the work orders holding the action to be arbitrary. There can be no doubt that the cancellation order in this case also is liable to be set aside on the ground that it is vitiated by blatant arbitrariness.

4. It is not known what prompted the Chief Medical Officer of Health, Malda to issue the order mechanically when in several previous cases this Court has held that such an order as this could not be issued. I am of the view that by using his administrative power arbitrarily, mechanically and without application of mind the Chief Medical Officer of Health, Malda has generated this unnecessary litigation.

5. In my opinion, the appropriate authority of the Government of West Bengal should look into the matter and take appropriate action against the official who has issued the order mechanically without examining the

previous orders of this Court and has thus generated this absolutely unnecessary litigation.

6. For these reasons, I allow the art.226 petition, set aside the impugned order dated August 4, 2010 and order that all actions taken on the basis thereof shall be deemed to be quashed. The Secretary, Department of Health and Family Welfare, Government of West Bengal is directed to take appropriate action in the matter in the light of the observations made hereinbefore. No costs. Certified xerox.

(Jayanta Kumar Biswas, J)

