

03.09.2026
Ct. No.446
Sl. No.3
akd

W. P. A. 18458 of 2026

[Azimganj Nimtala Ghat Mallar @ Mallah Samity & Ors. -Vs- The State of West Bengal & Ors.]

Mr. Ritzu Ghosal .. Sr. Advocate
Mr. Baidurya Ghosal
Ms. Ledia Dasgupta
Mr. Saikat Mukherjee
Mr. Sourav Mukherjee
... ... for the petitioners

Mr. Anindya Lahiri .. Sr. Advocate
Mr. Usof Ali Dewan
Mr. Asif Dewan
Mr. Subhomoy Pant
... ... for respondent no. 9
[Executive Officer, Jiaganj-Azimganj Municipality]

Mr. Susanta Dutta
Mr. Noni Gopal Chakraborty
... ... for the State

1. The present writ petition has been preferred, inter alia, questioning the legality of the tender process initiated by the Jiaganj-Azimganj Municipality for settlement of the Jiaganj Nimtala Ferry Ghat (hereinafter referred to as “the ferry ghat”) for the period commencing from 1st October, 2026, pursuant to the tender notice dated 8th August, 2026. The writ petitioners have also prayed for issuance of a writ of mandamus directing the Jiaganj-Azimganj Municipality (hereinafter referred to as “the Municipality”) to settle the ferry ghat in their favour in accordance with the legislative mandate contained in Clause 281(iii) of the West Bengal Land & Land Reforms Manual, 1991 (hereinafter referred to as “the Manual”), upon determination of the economic rent by the Collector in accordance therewith.

2. Mr. Ritzu Ghosal, learned Senior Advocate appearing for the petitioners, submits that the petitioners constitute a cooperative society comprising persons belonging to the marginalised sections of the locality, who happen to be the boatmen by avocation. He further submits that, initially, the ferry ghat was privately owned. Subsequently, in exercise of the power conferred under Section 132(2) of the West Bengal Municipal Act, 1993, the ferry ghat was declared to be a municipal ferry. Referring to Sections 9 and 15 of the Bengal Ferries Act, 1885, and Clause 281(iii) of the Manual, he submits that the concerned District Magistrate is the competent authority to settle the ferry ghat in terms of the provisions of the Bengal Ferries Act, 1885. He further submits that it is also required to be taken into consideration that the ferry ghat is being operated over khasmahal land. According to him, while settling the ferry ghat, the concerned District Magistrate is required to determine the rent in accordance with the legislative mandate contained in Clause 281(iii) of the Manual.

3. Mr. Ghosal further submits that the Municipality had previously floated a tender, and the petitioners participated in the said tender process. Having emerged as the successful bidder, the ferry ghat was settled in their favour, and till date, the petitioners have been running the ferry ghat. Their settlement will expire on 30th September, 2026. He submits that, before the expiry of the term of such settlement, the Municipality issued a tender notice dated 8th August, 2026, inviting bidders, and the bid value has been exorbitantly increased from Rs. 21 lakhs to Rs. 35 lakhs. He also submits that such exorbitant bid value has

been determined without any rational or justifiable basis, and the same has been done only to prevent the petitioners from participating in the tender process.

4. Drawing my attention to the balance sheet appended to the supplementary affidavit filed on behalf of the petitioners, Mr. Ghosal submits that the balance sheet would indicate that it is difficult for any person operating such ferry ghat to earn such a huge amount of revenue from the said ferry ghat. He further submits that the action of the Municipality in initiating such tender process and enhancing the bid value to such an extent is arbitrary. In such conspectus, according to him, the Municipality should be restrained from initiating any tender process and be directed to permit the petitioners to continue running the ferry ghat.

5. Mr. Anindya Lahiri, learned Senior Advocate appearing for the respondent no. 9, vehemently opposes the submissions advanced by Mr. Ghosal. He submits that, in an earlier round of litigation initiated by the petitioners by filing a writ petition being WPA 14405 of 2023 (Azimganj Nimtala Ghat Mallar Samity & Ors. vs. The State of West Bengal & Ors.), a challenge was thrown to the tender process initiated by the Municipality in 2023. In addition, the petitioners also challenged the notification dated 1st February, 2019, issued by the Department of Urban Development & Municipal Affairs, Government of West Bengal, declaring the Azimganj Nimtala Ghat as a municipal ferry.

6. Referring to an order dated 28th June, 2023, passed by a coordinate Bench of this Court in WPA 14405 of 2023, Mr. Lahiri submits that the coordinate Bench refused to accept such

challenge to the notification dated 1st February, 2019, as well as to the tender process. However, liberty was granted to the petitioners to participate in the tender process.

7. The petitioners, without raising any demur or objection, participated in the tender process and, having emerged as the successful bidder, were granted settlement of the ferry ghat in their favour in 2023. Thereafter, the petitioners again participated in the subsequent tender process and, having once again emerged as the successful bidder, have been operating the said ferry ghat till date. The existing term of settlement of the ferry ghat is due to expire on 30th September, 2026. The fresh term of settlement, pursuant to the tender notice dated 8th August, 2026, is scheduled to commence on and from 1st October, 2026.

8. Mr. Lahiri further submits that the Municipality has determined the bid value with a view to augmenting its revenue. According to him, this Court, in exercise of its writ jurisdiction, cannot sit in appeal over such determination. He further submits that there is no illegality in the decision-making process and, therefore, no occasion arises for this Court to interfere with the same.

9. Heard the learned Advocates appearing for the respective parties and perused the materials on record.

10. As noted previously, in exercise of the power conferred upon the Department of Urban Development & Municipal Affairs, Government of West Bengal under Section 132(2) of the West Bengal Municipal Act, 1993, the Azimganj Nimtala Ghat was declared to be a municipal ferry ghat by an order dated

1st February, 2019. The petitioners challenged the said order by preferring a writ petition being WPA 14405 of 2023. A coordinate Bench of this Court disposed of the writ petition upon refusing to interfere with the order dated 1st February, 2019.

11. The petitioners did not assail the order dated 28th June, 2023, passed by the coordinate Bench. On the contrary, they participated in the tender process pursuant to the said order, which indicates their acceptance of the Municipality's authority to initiate the tender process for settlement of the ferry ghat. Having consciously participated in the tender process without questioning the authority of the Municipality to do so, the petitioners cannot now be permitted to raise the selfsame issue in the present proceeding. Moreover, applying the principle of constructive *res judicata*, the petitioners are, therefore, precluded from raising such a challenge in the present writ petition.

12. Section 4 of the Bengal Ferries Act, 1885, lays down that nothing contained in the said Act shall apply to any ferry deemed or declared to be a municipal ferry under the provisions of the Bengal Municipal Act, 1932. Therefore, the reliance placed by Mr. Ghosal on the provisions of Sections 9 and 15 of the Bengal Ferries Act, 1885, is misplaced.

13. In the eligibility criteria for qualification of the bidders prescribed in the tender notice dated 8th August, 2026, it was specified that Boatmen Co-operative Societies or Partnership Firms constituted by local boatmen or hereditary (Patni) boatmen would be eligible to participate in the auction, and the settlement would be made on the basis of the prescribed

preference as per Clause 281(iii) of the Manual. Therefore, it was clearly specified in the said tender notice that Clause 281(iii) of the Manual would be followed.

14. However, the interpretation that the economic rent shall be determined with reference to 20% of the average net income of the preceding three years, as per Clause 281(iii) of the 1991 Manual, is a misinterpretation, for the reason that the provision for determination of economic rent, as appears from Clause 281(iii) of the Manual, will be applicable when there is only one cooperative society or partnership concern in the locality. However, when there is more than one cooperative society or partnership concern in the locality, the ferry ghat needs to be settled through a competitive tender process.

15. It is a well-settled proposition of law that the scope of interference by a writ court in matters relating to tenders is limited and is ordinarily confined to the decision-making process rather than the merits of the decision itself. The State and its instrumentalities must have sufficient latitude in framing the terms and conditions of a tender, prescribing and evaluating the technical requirements, taking commercial decisions and determining the bid value. The authority entrusted with the task of initiating and conducting the tender process, being possessed of the requisite expertise, is ordinarily the best judge of the manner in which its own terms and conditions are to be interpreted and applied. Unless it is demonstrated that any term or condition of the tender is vitiated by mala fides, perversity, arbitrariness or discrimination, or has been designed to favour a

particular bidder, the writ court would not ordinarily interfere with the tender process.

16. In the present case, I do not find any material warranting interference with the tender process. I also find merit in the submission advanced by Mr. Lahiri that a writ court cannot sit in appeal over a decision taken by an expert authority, or a body of experts, in determining the bid value.

17. Therefore, based on the discussions made in the foregoing paragraphs, I do not find any substance in the contentions advanced on behalf of the petitioners.

18. Accordingly, the writ petition being WPA 18458 of 2026 is, thus, dismissed.

19. Since no affidavits have been filed by the respondents, the allegations made in the writ petition shall be deemed to have not been admitted by the respondents.

20. There shall be no order as to costs.

21. Let urgent Photostat certified copy of this order be made available to the parties, if applied for, upon compliance of usual formalities.

(Partha Sarathi Chatterjee, J.)