

**HIGH COURT OF TRIPURA
AGARTALA**

W.A. 55 of 2022

1. M/s Abhaya Kalpa Technology Pvt. Ltd.

A Company registered under the Companies Registration Act, 1956, represented by its Managing Director, R/at 69, Thrinethra, 10th Main, Binny Layout, 2nd Stage, Vijayanagar, Bangaluru-560040, Karnataka State,

2. NG Lakshmisha

S/o Lt. NG Gujjegowda, CEO & Managing Director, M/s Abhaya Kalpa Technology Pvt. Ltd. 69, Thrinethra, 10th Main, Binny Layout, 2nd Stage, Vijayanagar, Bangaluru-560040, Karnataka State

... APPELLANTS

(Petitioners in the writ petition)

Versus

1. Tripura Rural livelihood mission (TRLM), represented by its Chief Executive Officer, State Mission Management Unit (SMMU), near Bholagiri Ashram, Opp. to EPFO Office, Agartala, P.S. NCC, P.O. Kunjaban, PIN- 799006, District- West Tripura

2. The State of Tripura

notice to be served upon the Secretary to the Govt. of Tripura, Rural Development Department, New Secretariat Complex, Gurkhabasti, P.O. Kunjaban-799007, P.S. NCC, Agartala, District- West Tripura

3. Union of India

notice to be served upon the Secretary to the Govt. of India, Ministry of Rural Development, Krishi Bhawan, New Delhi-110001

4. NABARD Consultancy Service (NABCONS), A company registered under the Companies Registration Act, 1956, represented by its Managing Director, 24 Rajendra Place, 7th Floor, NABARD Building, New Delhi-110125

... RESPONDENTS

(Respondents in the writ petition)

For Appellant(s)	:	Mr. SK Deb, Sr. Advocate Mr. AL Saha, Advocate
For Respondent(s)	:	Mr. D. Bhattacharjee, GA Mr. S. Lodh, Advocate Mr. B. Majumder, CGC Mr. S. Saha, Advocate
Date of hearing & delivery of judgment	:	07.02.2023
Whether fit for reporting	:	Yes / No

HON'BLE THE CHIEF JUSTICE (ACTING)
HON'BLE MR. JUSTICE ARINDAM LODH
Judgment & Order (Oral)

07/02/2023

(T. Amarnath Goud, ACJ)

Heard Mr. SK Deb, learned senior counsel assisted by Mr. AL Saha, learned counsel for the appellants. Also heard Mr. D. Bhattacharjee, learned GA assisted by Mr. S. Saha, learned counsel appearing for the respondent-State and Mr. S. Lodh, learned counsel appearing for respondent-NABARD Consultancy Service and Mr. B. Majumder, learned CGC appearing for respondent-Union of India.

2. This appeal has been filed by the appellants assailing the judgment and order of the learned Single Judge dated 12.01.2022 passed in WP(C) no.657 of 2021 dismissing the writ petition filed by the petitioners, the appellants herein.

3. Briefly stated, the petitioner had participated in selection process of DDU-GKY project in the State of Tripura. Screening of qualitative appraisal was carried out by respondent no. 4, NABCONS and after clearance the name of the petitioner was recommended to respondent no. 1, TRLM, for referring the name of the petitioner to the PAC/EC, Tripura. The respondent no. 1 herein conducted a pre-PAC meeting on 12.01.2021 and thereafter records of 15 agencies were forwarded for PAC meeting. Thereafter, in the meeting held on 26.02.2021 by the

PAC under the Chairmanship of Chief Secretary, Government of Tripura, the project of the petitioner was not accepted and according to the petitioner such decision was taken without considering the substantive records. It is the case of the petitioner that for taking such decision it was observed that the petitioners' financial status was not at the satisfactory level. It is the further case of the petitioners that the respondent no. 4 without following the guidelines wrongly awarded marks to them. Thereafter, the petitioners on 13.03.2021 made a representation for consideration of their proposal and the same was again discarded without assigning any reason thereof.

4. Mr. Deb, learned senior counsel appearing for the petitioners has submitted that after qualitative appraisal the respondent no. 4 had recommended the petitioner which was also approved in the pre-PAC meeting, but surprisingly and most arbitrarily the PAC in its meeting dated 26.02.2021 did not consider the eligibility of the petitioners. Mr. Deb, learned senior counsel referring to the PAC minutes of DDU-GKY, Tripura has pointed out that in the summary of the project the PAC did not consider the petitioner since as per QA report, the financial strength of score of the petitioner is 2 out of 10. He has further contended that for the same inputs the petitioners had been qualified in Arunachal Pradesh, Karnataka, Kerala but, for the

same inputs the appraisal report of the petitioner was held to be not acceptable. Learned senior counsel has further contended that the petitioners made representation for informing the petitioner regarding the reasons for not being qualified and in turn respondent no. 1 by its reply dated 27.07.2021 rejected the proposal of the petitioner without applying its mind and without any reason.

5. Learned GA has fairly submitted that scoring has been carried out exclusively by respondent no. 4 and respondents no. 1 and 2 are not in the way. Mr. Lodh, learned counsel appearing for the respondent No.4 submitted that by following the guidelines they have awarded the marks to the petitioners.

6. We have perused the records and also the judgment of the learned single Judge.

7. From the record, it is found that respondent no. 4 has chosen not to file any counter affidavit but, in absence of any counter affidavit, respondent no. 4 cannot substantiate their original order. It is the respondents no. 1 and 2 who are to explain in details the rejection of the proposal of the petitioners after obtaining proper report from the respondent no. 4 since respondent no. 4 has awarded the marks.

8. Considering all aspects of the matter, the impugned order dated 12.01.2022 passed by the learned single Judge is hereby

set-aside. The matter is remanded back to the respondents no. 1 and 2 where they shall re-examine the case of the petitioners and pass a speaking order with regard to the eligibility and non-eligibility of the petitioners. The entire exercise shall be completed within 2 (two) months from the date of passing of this order.

9. Accordingly, the writ appeal stands disposed of. Interim application(s), if any, also stand disposed of.

JUDGE

CHIEF JUSTICE (ACTING)



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