

GAHC040000242023



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)
(ITANAGAR BENCH)

Case No. : WP(C) 6/2023

1:M/s R.D. Enterprise and Anr.
A Sole Proprietorship Concern,
Represented by its Sole Proprietor Sri Rinchin Dondup and having its registered
office at Dawa Hotel, Post Office and Police Station Bomdila, in the District of West
Kameng, Arunachal Pradesh, PIN 79001

2: Rinchin Dondup
Son of Shri Leki Tsering

Resident of Dawa Hotel
Post Office and Police Station Bomdila
in the District of West Kameng
Arunachal Pradesh
PIN 7900

VERSUS

1:THE STATE OF AP and 6 Ors.
Represented by the Chief Secretary to the Govt. of Arunachal Pradesh, Itanagar, AP

2:The Secretary
Public Works Department
Govt. of Arunachal Pradesh
Civil Secretariat Itanagar
Arunachal Pradesh.

3:The Secretary
Department of Finance
Govt. of Arunachal Pradesh
Civil Secretariat Itanagar
Arunachal Pradesh.

4:The Chief Engineer
Public Works Department
Itanagar
Arunachal Pradesh.

5:The Superintending Engineer
Public Works Department
Rupa Circle
Rupa
Arunachal Pradesh.

6:The Executive Engineer
Public Works Department
Bomdila Division
Bomdila
Arunachal Pradesh.

7:The Director
Directorate of Information and Public Relations (DIPR)
Itanagar
Arunachal Pradesh

Advocate for the Petitioner : P Borgohain

Advocate for the Respondent : GA (AP)

**BEFORE
HONBLE MR. JUSTICE NANI TAGIA**

ORDER

Date : 10-02-2023

Heard Mr. P. Mahanta, learned counsel for the petitioners. Also heard Mr. Subu Tapin, learned Senior Government Advocate, appearing on behalf of all the respondents.

This writ petition under Article 226 of the Constitution of India, has been filed by

the petitioners, challenging the Notice Inviting Tender(NIT), issued by the Executive Engineer, Bomdila Division, Public Works Department, Government of Arunachal Pradesh, Bomdila, inviting sealed item rate tender from registered Contractors of APPWD and other organizations in appropriate classes and categories, domiciled within the territorial jurisdiction of West Kameng District, Arunachal Pradesh, on 05.01.2023, upto 11:00 hrs. IST, for the work "C/o RCC Double Unit Type-II & III Quarter at Bomdila(SH:T-II-30 Nos. in 5 Blocks of G+2 & T-III-30 Nos. in 5 Blocks of G+2)" for an estimated cost of Rs. 14,85,14,062/-. The aforesaid Notice Inviting Tender(NIT), is stated to have been published in the FACEBOOK page of "Arunachal DIPR" on 26.12.2022.

Assailing the aforesaid Notice Inviting Tender(NIT); the petitioners contend that since the estimated cost of the work, in question, is more than Rs. 1 crore; as per the General Financial Rules, 2017; CPWD Manual; and also the Notification, dated 24.08.2012, issued by the Development Commissioner, Department of Finance, Government of Arunachal Pradesh, Itanagar; as well as the Office Memorandum, dated 28.11.2016, issued by the Commissioner, Public Works Department, Government of Arunachal Pradesh, Itanagar, vide Memo. No. SPWD/W-844/2016-17/1016; whereby, it has been provided that in a contract work, the value of which is more than Rs. 1 crore; the tender in question has to be issued by way of 'e' tendering process.

The Respondent No. 6 has filed an affidavit-in-opposition wherein, in paragraph No. 4, thereof; while not disputing the contention raised by the petitioner that in terms of the General Financial Rules, 2017; CPWD Manual; and also the Notification, dated 24.12.2017, issued by the Development Commissioner, Department of Finance, Government of Arunachal Pradesh, Itanagar; as well as the Office Memorandum, dated 28.11.2016, issued by the Commissioner, Public Works Department, Government of Arunachal Pradesh, Itanagar, vide Memo. No. SPWD/W-844/2016-

17/1016, the value of work which is more than Rs. 1 crore, a tender has to be issued by way of 'e' tendering process; has stated, in the instant case, that the 'e' tendering process in the instant case was not resorted to due to paucity of time for utilization of the fund allocated within a specified time.

Since the requirement of resorting to 'e' tendering process in a work, the value of which is more than Rs. 1 crore, as per the General Financial Rules, 2017; CPWD Manual; and also the Notification, dated 24.12.2017, issued by the Development Commissioner, Department of Finance, Government of Arunachal Pradesh, Itanagar; as well as the Office Memorandum, dated 28.11.2016, issued by the Commissioner, Public Works Department, Government of Arunachal Pradesh, Itanagar, vide Memo. No. SPWD/W-844/2016-17/1016; have not been disputed by the respondent authorities; this writ petition is hereby disposed of with a direction to the respondent authorities to resort to 'e' tendering process for the work viz. construction of RCC Double Unit Type-II & III Quarter at Bomdila(SH:T-II-30 Nos. in 5 Blocks of G+2 & T-III-30 Nos. in 5 Blocks of G+2) at the earliest.

That the 'e' tendering process for the work viz. construction of RCC Double Unit Type-II & III Quarter at Bomdila(SH:T-II-30 Nos. in 5 Blocks of G+2 & T-III-30 Nos. in 5 Blocks of G+2); shall be resorted to by the respondent authorities shall also be published in 2(two) local daily Newspapers of the State of Arunachal Pradesh, having wide circulation in the State.

Consequent upon the above direction; the impugned Notice Inviting Tender(NIT), issued by the Executive Engineer, Bomdila Division, Public Works Department, Government of Arunachal Pradesh, Bomdila, inviting sealed item rate tender from registered Contractors of APPWD and other organizations in appropriate classes and categories, domiciled within the territorial jurisdiction of the West Kameng

District, Arunachal Pradesh, on 05.01.2023, upto 11.00 hrs. IST, for construction of RCC Double Unit Type-II & III Quarter at Bomdila(SH:T-II-30 Nos. in 5 Blocks of G+2 & T-III-30 Nos. in 5 Blocks of G+2) for an estimated cost of Rs. 14,85,14,062; is hereby set aside and quashed.

The writ petition stands disposed of in terms above.

JUDGE

Comparing Assistant