

GAHC040001582023



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

Case No. : WP(C) 59/2023

1:M/s Agam Construction

Having its registered office at Tigra Mirbuk Village, PO and PS Pasighat, East Siang District, Arunachal Pradesh, Email trmdrng@gamila.com. Contact No. 9862864479, represented by Vijay Taram, Power of Attorney Holder, resident of Komkar Sizer Village, PO and PS Geku, Upper Siang District. Arunachal Pradesh.

VERSUS

1:THE STATE OF AP and 6 Ors.

Represented by the Chief Secretary, Govt. of Arunachal Pradesh, Civil Secretariat, Itanagar. Arunachal Pradesh.

2:The Commissioner

PWD

Govt. of Arunachal Pradesh

Itanagar. Civil Secretariat

Arunachal Pradesh.

3:The Chief Engineer

Central Zone B

PWD AP

Pasighat

Govt. of Arunachal Pradesh

Pasighat.

4:The Superintending Engineer

Boleng Circle

PWD

AP

Siang District

Arunachal Pradesh.

5:The Executive Engineer cum Chairman
Tender Opening Committee
Mariyang Division
PWD. Upper Siang District
Arunachal Pradesh.

6:M/s Tani Takar Enterprises
Village Geku
PO and PS Geku
Upper Siang District. Arunachal Pradesh
represented by its Proprietor Smti. Tireng Panyang Taku
W/o Shri Kanggong Taku
Village Geku
PO and PS Geku
Upper Siang District. Arunachal Pradesh. Email k.taku71@gmail.com.
Mobile No. 9435747212/88110055238.

7:M/s Pamong Construction
Yingkiong
PO and PS Yingkiong
Upper Siang District
Arunachal Pradesh.
Represented by its Power of Attorney Holder Smt. Tsering Wangmo
Resident of Yingkiong
PO and PS Yingkiong
Upper Siang District. Arunachal Pradesh.
Email narmikabit13@gmail.com.
Mobile No. 943625229

Advocate for the Petitioner : Marto Kato

Advocate for the Respondent : GA (AP)

BEFORE
HONBLE MR. JUSTICE NANI TAGIA

ORDER

Date : 08-02-2023

Heard Mr. M. Kato, learned counsel for the petitioner. Also heard Mr. S. Tapin, learned Senior Govt. Advocate for the State respondents and Mr. D. Soki, learned Addl. Senior Govt. Advocate for the State respondent No.7.

The petitioner has put to challenge the Board proceeding held on 30.12.2022, pursuant to the NIT, dated 25.11.2022, issued by the Executive Engineer, Mariyang Division, Public Works Department, Arunachal Pradesh, vide No.01/2022-23/MRGD/GYSD, inviting online tender on item rate contract in double bid system from approved and enlisted contractors of Class-I under AP:PWD, domiciled within territorial jurisdiction of Upper Siang District for the work "*construction of Road from NH-513 at Padu to Circle HQ Katan in Upper Siang District of Arunachal Pradesh*", whereby the petitioner's bid has been rejected on the ground of non-production of domicile certificate(Permanent Resident Certificate).

Though, the writ petitioner does not dispute the requirement of submission of domiciled certificate, indicating that the bidder is domiciled within the territorial jurisdiction of Upper Siang District, it has been contended by the petitioner that the respondents No.6 and 7 have also not submitted along with their respective bids; (i)certificate of work experience; (ii)affidavit as per the provision of the NIT; and (iii) affidavit of not having more than two works in hand under the Arunachal Pradesh, which documents are required to be scanned and uploaded along with the bids during its submission. The petitioner, therefore, contends that since the petitioner as well as the respondents No.6 and 7 have not submitted the documents that are required to be submitted along with the bids i.e., in the case of the petitioner, the domiciled certificate and in the case of respondents No.6 and 7, the certificate of work experience; affidavit as per the provision of NIT; and affidavit of not having more than two works in hand under the Arunachal Pradesh, yet, the respondent authorities have accepted the bids of the respondents No.6

and 7 while rejecting the bid of the petitioner for non-submission of the domiciled certificate and thereby, the action of the respondent authorities is discriminatory and, therefore, the Board proceeding held on 30.12.2022 is liable to be set aside and quashed.

The NIeT, dated 25.11.2022, admittedly, has been issued by the Executive Engineer, Mariyang Division, Public Works Department, Arunachal Pradesh under the *Arunachal Pradesh District Based Entrepreneurs and Professionals (Incentive, Development and Promotional) Act, 2015 and as amended by the Act No.7 of 2020*(hereinafter "Act of 2015").

The value of work mentioned in the NIeT being Rs.13,39,71,000/- as per Section 3(1) Sl. No.6 of the Act of 2015, all registered contractors in Class-I categories domiciled within the territorial jurisdiction of the District alone are eligible for participation. The NIeT in question, for which the work has been issued being within the district of Upper Siang, it is the registered contractors in Class-I categories domiciled within the Upper Siang District, who would be eligible to participate in terms of the Act of 2015, and as amended from time to time. The petitioner herein, is a Class-I contractor of East Siang District and registered as per the provision of the Arunachal Pradesh Enlistment of Contractors Rules, 2008.

As has been discussed hereinabove, that it is the contractors in Class-I categories domiciled within the Upper Siang District alone, who are eligible for participation in the NIeT issued, the petitioner herein not being the domicile of the Upper Siang District, rather domicile of East Siang District, I am of the view that the petitioner does not have the *locus* to challenge the impugned Board proceeding

held on 30.12.2022, pursuant to the Inviting NIeT, dated 25.11.2022, issued by the Executive Engineer, Mariyang Division, Public Works Department, Arunachal Pradesh, vide No.01/2022-23/MRGD/GYSD, inviting online tender on item rate contract in double bid system from approved and enlisted contractors of Class-I under AP:PWD, domiciled within territorial jurisdiction of Upper Siang District for the work "*construction of Road from NH-513 at Padu to Circle HQ Katan in Upper Siang District of Arunachal Pradesh*".

In view of the above, this writ petition stands dismissed for want of the *locus standi* of the petitioner to challenge the impugned Board proceeding held on 30.12.2022, pursuant to the NIeT, dated 25.11.2022, issued by the Executive Engineer, Mariyang Division, Public Works Department, Arunachal Pradesh, vide No.01/2022-23/MRGD/GYSD.

JUDGE

Comparing Assistant