

GAHC040005822023



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

Case No. : Review Pet./2/2023

THE STATE OF AP and 3 Ors.

Represented by the Commissioner, Public Works Department (PWD), Govt. of Arunachal Pradesh.

2: The Chief Engineer Central Zone B, PWD, Pasighat, A.P.

Age:

Occupation :

3: The Superintending Engineer Basar Circle PWD Basar A.P.

Age:

Occupation :

4: The Executive Engineer Gensi Division PWD Gensi, Lower Siang District, A.P.

Age:

Occupation

VERSUS

M/s Gesum Enterprise

Represented by its Sole Proprietor Shri Marge Karlo, Liru Village, Likabali, PO/PS Likabali, District Lower Siang, Pin Code 791125, Arunachal Pradesh, Itanagar.

Advocate for the Petitioner : Subu Tapin, Sr. G.A.

Advocate for the Respondent :

**BEFORE
HONBLE MR. JUSTICE NANI TAGIA**

ORDER

Date : 28.09.2023

Heard Mr. Subu Tapin, learned Senior Government Advocate, appearing on behalf of the petitioners-State of Arunachal Pradesh.

However, none has appeared on behalf of the respondent, on call, despite service of notice as indicated in the Office Note dated, 15.07.2023.

This is an application seeking review of this Court's order, dated 03.04.2023, passed in WP(c)176(AP)2023.

The aforesaid writ petition being WP(c)176(AP)2023, was filed by the respondent/writ petitioner, therein, praying for declaration of the result of the Notice Inviting Tender(NIT), dated 13.03.2023, issued by the Executive Engineer, Gensi Division, Public Works Department, Gensi, vide No. GD/S-08/2022-2023/793-800, whereby, the item rate tender was invited for the work, namely, "Construction of Likabali - Aalo Highway to Lower Siang District Headquarter at Siji, Lower Siang District".

The contention of the respondent/writ petitioner, therein, was that in response to the Notice Inviting Tender(NIT), dated 13.03.2023, issued by the Executive Engineer, Gensi Division, Public Works Department, Gensi; though as many as 4(four) bidders including the petitioner had submitted their bids, the date of

opening of which bid, had been fixed on 20.03.2023, at 10.30 hrs., as per the Notice Inviting Tender(NIT), dated 13.03.2023, issued by the Executive Engineer, Gensi Division, Public Works Department, Gensi, but the authorities have not yet declared the result of the Notice Inviting Tender(NIT), in question.

Considering the contention raised by the respondent/writ petitioner, therein, as above; the aforesaid writ petition i.e. WP(c)176(AP)2023, was disposed of at the motion hearing itself vide order, dated 03.04.2023, whereby, the respondent authorities were directed to declare the result of the bids submitted, pursuant to the Notice Inviting Tender(NIT), dated 13.03.2023, issued by the Executive Engineer, Gensi Division, Public Works Department, Gensi, if the result was not already declared and thereafter, duly notify and put up in the Notice Board of the Office of the Executive Engineer, Gensi Division, Public Works Department, Gensi. The result of the bids submitted, pursuant to the Notice Inviting Tender(NIT), dated 13.03.2023, was also directed to be communicated to all the bidders within 2(two) weeks.

The petitioners-State of Arunachal Pradesh, by filing this review petition; is seeking review of the Court's order, dated 03.04.2023, passed in WP(c)176(AP)2023, contending that even before the order, dated 03.04.2023, was passed by the Court in the aforesaid writ petition, the respondent authorities vide order, dated 31.03.2023, issued by the Executive Engineer, Gensi Division, Public Works Department, Gensi, under Memo. No. GD/S-08/2022-2023/1105-12, had cancelled the Notice Inviting Tender(NIT), dated 13.03.2023, issued by the Executive Engineer, Gensi Division, Public Works Department, Gensi, for the work,

namely, "Construction of Likabali - Aalo Highway to Lower Siang District Headquarter at Siji, Lower Siang District".

It appears that the cancellation of the Notice Inviting Tender(NIT), dated 13.03.2023, issued by the Executive Engineer, Gensi Division, Public Works Department, Gensi, vide order, dated 31.03.2023, which was also issued by the Executive Engineer, Gensi Division, Public Works Department, Gensi, was neither brought to the notice of the Court by the petitioner in the aforesaid writ petition i.e. WP(c)176(AP)2023, when the order, dated 03.04.2023, was passed by the Court in the aforesaid writ petition, nor, the review petitioners, herein, could brought to the notice of the Court, the order, dated 31.03.2023, issued by the Executive Engineer, Gensi Division, Public Works Department, Gensi, or, at the time of passing of this Court's order, dated 03.04.2023, as the writ petition viz. WP(c)176(AP)2023, was disposed of at the motion hearing itself.

In view of the above; the review petitioners-State of Arunachal Pradesh contends that had the order, dated 31.03.2023, cancelling the Notice Inviting Tender(NIT), dated 13.03.2023, issued by the Executive Engineer, Gensi Division, Public Works Department, Gensi, was brought to the notice of the Court; the order, dated 31.03.2023, could not have been passed by the Court in the aforesaid writ petition i.e. WP(c)176(AP)2023.

On consideration of the contentions raised by Mr. Tapin, learned Senior Government Advocate, as above, and taking into account, the order, dated 31.03.2023, issued by the Executive Engineer, Gensi Division, Public Works

Department, Gensi, cancelling the Notice Inviting Tender(NIT), dated 13.03.2023, issued by the Executive Engineer, Gensi Division, Public Works Department, Gensi, for the work, namely, "Construction of Likabali - Aalo Highway to Lower Siang District Headquarter at Siji, Lower Siang District"; the order, dated 03.04.2023, passed by the Court in the connected writ petition being WP(c)176(AP)2023, is hereby reviewed and recalled.

The writ petition accordingly, shall, now, be listed for 'motion' hearing.

The review petition stands allowed and accordingly stands disposed of.

JUDGE

Comparing Assistant