GAHC040013762023

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

Case No. : WP(C)/487/2023

M/s Atu Apa Developers
Hasi Namlo, Sangey Lhaddeen Sports Academy, Chimpu, Papum Pare, Arunachal Pradesh, Pin 791111, Represented by its authorised representative Sri Ha Takia, S/o Ha Tarang, R/o Near Govt. Middle School, Nyokuriang Village, Parsi Parlo Circle, Kurung Kumey District, Arunachal Pradesh.

VERSUS

The State of AP and 4 Others
represented by the Secretary, Department of Rural Development, Government of Arunachal Pradesh, Itanagar 791111.

2:The Director, Department of Rural Development, Government of Arunachal Pradesh, Itanagar.

3:The Joint Director, Department of Rural Development, Government of Arunachal Pradesh, Itanagar.

4:The Project Director, District Rural Development Agency, Kurung Kumey District, Koloriang-791118

5:The Tender Evaluation Committee, District Rural Development Agency, Kurung Kumey District, Koloriang-791118 represented by its Chairman.

Advocate for the Petitioner : T. Garam

Advocate for the Respondent : Binter Picha

BEFORE
HONBLE MR. JUSTICE AJIT BORTHAKUR

ORDER

Date : 09-10-2023

Heard Mr. T. Garam, the learned counsel for the petitioner and Mr. B. Picha, the learned Standing Counsel for the Department of Rural Development, A.P., respondent Nos. 1 to 5.

The grievance of the petitioner is that the respondent No.3 issued an NIT on 11.08.2023 for "Supply and Procurement of materials under MGNREGA 2023-2024 in respect of CB Block, Parsi-Parlo, Kurung Kumey District, Arunachal Pradesh" (Package-II) with an estimated cost of Rs. 6,01,96,115/-(Rupees Six Crores One Lakhs Ninety Six Thousand One Hundred fifteen only). The petitioner firm participated in the tender process by submitting all the necessary documents in a sealed envelope as per the requirement of the NIT. On 05.10.2023, the Tender Evaluation Committee i.e. respondent No.5 evaluated the bids of the bidders except the bid of the present petitioner firm only on the ground that the bid documents of the petitioner firm were put on an envelope which was although sealed but without a wax seal.

Clause 6 (ii) of the NIT requires the bidders to file "in one large

sealed envelope". Nowhere, however, it is mentioned in the NIT that seal of the envelope containing the bidding documents must be sealed with wax. Therefore, in the opinion of this Court non-opening and non-consideration of the bid of the petitioner firm on that trivial ground appears to be arbitrary and unwarranted being not in consonance with the expression made in the NIT.

It is submitted at the bar that the result of evaluation of the bids are not yet published by the respondent authority.

Therefore, it is provided that the bid of the petitioner firm be opened and considered by the Tender Evaluation Committee i.e. respondent No.5 within a period of 7 (seven) days from the date of furnishing a certified copy of this Order to the respondent authority i.e. respondent No.5 which shall be furnished by the petitioner.

In the meantime, until the bid of the petitioner firm is opened and evaluated as per the NIT, the tender process shall not be finalised.

With the above discussions, the writ petition stands disposed of.

JUDGE

Comparing Assistant