

GAHC010044362023



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

Case No. : WP(C)/1167/2023

TIMIR KANTI CHANDA
S/O- LATE JNANENDRA MOHAN CHANDA, R/O- BHURAGAON,
LAHARIGHAT ROAD, P.S. BHURAGAON, DIST. MORIGAON, ASSAM

VERSUS

THE STATE OF ASSAM AND 8 ORS.
REPRESENTED BY THE CHIEF SECRETARY ,DISPUR, GUWAHATI-06.

2:THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM
TRANSPORT DEPARTMENT
DISPUR
GUWAHATI-06.

3:THE DEPUTY SECRETARY TO THE GOVT. OF ASSAM
TRANSPORT DEPARTMENT
DISPUR
GHY-06.

4:THE DIRECTOR

INLAND WATER TRANSPORT
ULUBARI
GHY-07.

5:THE EXECUTIVE ENGINEER
INLAND WATER TRANSPORT DIVISION
ULUBARI
GHY-07.

6:THE DEPUTY COMMISSIONER
DARRANG
MANGALDAI

ASSAM

7:THE ADDITIONAL DEPUTY COMMISSIONER
(REV)
DARRANG
MANGALDAI
ASSAM

8:THE CIRCLE OFFICER
DALGAON REVENUE CIRCLE
DARRANG
ASSAM

9:IMAN ALI
S/O- LATE JAMURUDDIN
R/O- NON-K-GARAPARI
P.O. AND P.S. DHULA
DIST. DARRANG
ASSAM
PIN- 784146

Advocate for the Petitioner : MR. N HOQUE

Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA

ORDER

Date : 19-06-2023

Heard Mr. H. Huda, learned counsel for the petitioner. Also heard learned Govt. Advocate for respondent No.1, Ms. M. D. Bora, learned Standing Counsel, Transport Department, respondent Nos. 2,3,4 and 5 and Mr. S. C. Biswas, learned counsel for respondent No.9.

2. The legality of the minutes of the tender committee dated 13.9.2022 as well as impugned settlement order dated 9.2.2023 in favour of the respondent No.9 by the Deputy Secretary to the Govt. of Assam, Transport Department (Respondent No.3) in the matter of settlement of ferry service of Bhuragaon-Badlichar via Pavakati, Malahu, Kalichar, Magurmari, Chitalmari and Karaikhowa for two years i.e 2022-24 were assailed in this writ petition under Article 226 of the Constitution of India.

3. According to the learned counsel for the petitioner, the bid of the petitioner was Rs.15,50,000/- whereas three other valid bidders had submitted their respective bid for a sum of Rs.15,00,500/-, Rs.13,14,500 and Rs.13,03,000/-. It is submitted that in course of taking revaluation for the bid which was opened on 2.8.2022, the petitioner had submitted all the requisite documents. As per Minutes of the

tender Committee Meeting dated 12.8.2022, the bid of the petitioner was rejected on the ground that he had failed to submit land valuation certificate as per NIT and Income Tax return for the period of 2021-22 was submitted and not for the period of 2022-23.

4. The learned counsel for the petitioner has submitted that the tendering authority had accepted clarification submitted by the Addl. Deputy Commissioner (Revenue), Darrang, Mangaldoi vide letter dated 19.12.2022, in relation to the rectification of the land valuation certificate of the respondent No.9. In the said context, it is submitted that the acceptance of the document after the meeting of the tender Committee was illegal and unacceptable and that if the respondent No.9 was favoured with acceptance on additional document after opening of tender, the petitioner also should have been given an opportunity of rectifying his documents.

5. Per contra the learned standing counsel for the Transport Department has submitted that the rejection of the bid of the petitioner during the technical evaluation vide Minutes dated 12.8.2022 has not been assailed in this writ petition. It is submitted that the rectified land valuation certificate issued by the Addl. Deputy Commissioner (Revenue), Darrang, Mangaldoi on 19.12.2022 was pursuant to complaint made by the petitioner on 17.11.2022 before the Minister of Transport and Fishery. In the said representation it was stated by the petitioner that the land documents submitted by the respondent No.9 was already cancelled by the Deputy Commissioner. Thereafter, the Deputy Commissioner, on the complaint being forwarded to him, had issued a clarification vide letter dated 19.12.2022 to the effect that the land valuation issued earlier to the respondent No.9 was not cancelled but it was rectified as per the valuation mentioned therein. Accordingly, it is submitted that the rejection of the technical bid of the petitioner is not being questioned and no case has been made out for interference with the settlement of the Ferry service with the respondent No. 9. The said submissions are reiterated by the learned counsel for the respondent No.9.

6. Considered the materials available in the writ petition, affidavit-in-opposition filed by the respondent Nos.4 and 9 as well as the two affidavits in reply filed by the petitioner. It appears from the materials available on record and the admission made by the petitioner that the petitioner had submitted the land records concerning his mother's land document. It was submitted by the learned counsel for the petitioner that if an opportunity was granted to the petitioner, he would have taken appropriate steps for submitting the land valuation certificate of appropriate amount in his own name. Accordingly, it is submitted that as the petitioner was not treated equally as respondent No.9, the tendering process has been vitiated.

7. The undisputed fact is that in support of his tender/ bid submitted by the petitioner, it is submitted by the learned counsel for the petitioner that he had submitted land document of his own as well as of his mother. It has not been demonstrated that the land valuation in respect of his land were sufficient to cover the bid amount which is requirement of the terms and condition of the NIT for leasing out IWT ferry service for the period of 2023-24.

8. Although the learned counsel for the petitioner has strenuously submitted that the respondent No.9 was permitted to bring additional document on record, the land valuation certificate submitted by respondent No.9 was revisited and enhanced / modified which has made the respondent No.9 eligible for submitting his bid. It is noted that by the minutes of tender committee meeting prepared on 12.8.2022, the bid of respondent No. 9 was already accepted and the bid submitted by the petitioner was technically rejected. The said rejection of the bid of the petitioner is not under challenge. Moreover the Minutes dated 12.8.2022 is also not under challenge, therefore the Court is of the considered opinion that even if the instant writ petition is allowed, it would not benefit the petitioner in any manner.

9. In so far as the land valuation certificate issued by the Deputy Commissioner on 19.12.2022 is concerned, the Court is of the view that even otherwise the tender Committee had accepted the document submitted by the respondent No.9 and therefore, notwithstanding that a subsequent document has come into record showing a different land valuation of the land owned by the respondent No.9, however during the technical evaluation, the document submitted by respondent No.9 had already been accepted without any demur. Therefore, even if an additional document has come on record, the Court does not find the petitioner to be prejudiced by the same as the rectified document was not taken into account when the minutes dated 12.8.2022 was made. The Deputy Commissioner, Darrang, Mangaldoi had merely verified the earlier land valuation certificates and had stated that those were not cancelled. Hence, the Court is of the considered opinion that the land valuation certificate which was relied upon by the respondent No.9 continue to remain valid though the land valuation certificate was subsequently rectified.

10. The learned counsel for the petitioner has also raised a point that in Annexure-I to the writ petition, which is a letter dated 20.8.2022 by the Addl. Deputy Commissioner (Revenue) Darrang, Mangaldai had directed the Circle Officer, Dalgaoon Revenue Circle, Dalgaoon to cancel the order issued by memo number reflected therein. The Court finds that by the subsequent communication dated 19.12.2022, the said land valuation certificate were not cancelled but were rectified. Therefore, it cannot be said that the submission of land valuation documents of respondent No.9 was vitiated so as to require its cancellation

11. Accordingly this writ petition stands dismissed. No order as to cost.

JUDGE

Comparing Assistant