

GAHC010066892021



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

**Case No. : WP(C)/2535/2021**

MD. JIYAU PASA  
S/O LATE SALIM PASA, NALBARI TOWN, WARD NO. 8, P.S. AND P.O.  
NALBARI, DIST. NALBARI, ASSAM.

VERSUS

THE STATE OF ASSAM AND 5 ORS  
REPRESENTED BY THE COMMISSIONER AND SECY. TO THE GOVT. OF  
ASSAM, PUBLIC WORKS ROADS DEPTT., DISPUR, GUWAHATI 06

2:THE CHIEF ENGINEER

PUBLIC WORKS DEPTT. (BORDER ROADS)  
CHANDMARI GUWAHATI  
ASSAM 781003

3:THE CHIEF ENGINEER

PUBLIC WORKS ROAD DEPTT.  
CHANDMARI GUWAHATI 03  
ASSAM.

4:THE ASSTT. EXECUTIVE ENGINEER

PUBLIC WORKS ROAD DEPTT. (PWRD) PLANNING CELL  
DISPUR  
GUWAHATI 06  
ASSAM.

5:M/S CAPITAL ENTERPRISE

C/O SANBOM TALPODIA

2ND FLOOR  
PAMIL PALACE  
ZOO ROAD TINIALI  
GUWAHATI 781024

6:NATIONAL RURAL INFRASTRUCTURE DEVELOPMENT AGENCY

REPRESENTED BY ITS DIRECTOR GENERAL  
KRISHI BHAWAN  
NEW DELHI 11000

**Advocate for the Petitioner** : MR. MD S HOQUE

**Advocate for the Respondent** : SC, PWD ROAD

**BEFORE**  
**HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI**

**ORDER**

**06.12.2023**

Heard Shri S. Hoque, learned counsel for the petitioner. Also heard Shri B. Gogoi, learned Standing Counsel, PWD.

2. Considering the fact that the pleadings have been exchanged and also certain development which have taken place, this writ petition is taken up for disposal at the admission stage.

3. The petitioner, who is a Class-1 (A) category contractor under the Public Works Department had participated in a tender process initiated vide NIT dated 04.02.2021 for works of Package No. 20183 for construction and maintenance of MRL 07-Hajo Nalbari Road to Pagaldia Embankment via Mathursala Road. It is the case of the petitioner that he was adjudged as the L1 bidder in spite of which the respondent no. 5, who was the L3 bidder, was allotted the work.

4. Shri Hoque, learned counsel for the petitioner submits that there was similar action in different parts of the packages in which the bids of the

petitioner was ignored and was given to different bidders and those were the subject matter of challenge in various writ petitions. It is submitted that those writ petitions, the leading case being WP(C)/2674/2021 have been disposed of by a common judgment and order dated 07.02.2023 whereby the petitions were allowed and the work in question were directed to be given to the L1 bidder, who is the writ petitioner.

5. Shri Hoque, learned counsel for the petitioner further informs this Court so far as this case is concerned, the respondent no. 5 has also, in the meantime, withdrawn the Earnest Money Deposit and therefore there is no difficulty even otherwise for the Department to act in accordance with the law.

6. Shri Gogoi, learned Standing Counsel, PWD fairly concedes the aforesaid submission and makes a further submission that appropriate orders can be passed in tune with the earlier order passed in the bunch of the writ petitions as that order has not been challenged by the Department. It is however informed that the private respondent has filed a writ appeal in which there is no interim order. The fact of withdrawal of the EMD by the respondent no. 5 has also been admitted by the learned Standing Counsel of the Department.

7. In view of the aforesaid facts and circumstances, the instant writ petition is allowed by directing the Department to act in accordance with law for allotment of the work to the petitioner, who was the L1 bidder. The same is required to be done within a period of 3(three) weeks from today by completing the formalities.

**JUDGE**

**Comparing Assistant**