

GAHC010109522022



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

Case No. : WA/248/2022

PABAN HAZARIKA
S/O- LT. DINA NATH HAZARIKA, VILL AND P.O. TETELISORA, P.S.
KAMPUR, DIST.- NAGAON, ASSAM, PIN- 782624

VERSUS

BASU DEV BISWAS AND 6 ORS. E
S/O- LT. SWARUP BISWAS, VILL- BORUNGURI, P.O. LAO PANI, P.S.
KATCHUWA, DIST.- NAGAON, ASSAM, PIN- 782425

2:THE STATE OF ASSAM
REP. BY THE SECY. TO THE GOVT. OF ASSAM
FISHERY DEPTT.
DISPUR, GHY-06

3:THE MANAGING DIRECTOR
ASSAM FISHERIES DEVELOPMENT CORPORATION LTD.
BIMALA PRASAD CHALIHA ROAD
CHACHAL, VIP ROAD, GHY-36.

4:THE DIRECTOR OF FISHERIES, ASSAM
MEEN BHAWAN, GOPINATH NAGAR
GHY-16, ASSAM.

5:THE ADDL. SECY. TO THE GOVT. OF ASSAM
FISHERY DEPTT.
DISPUR, GHY-06

6:THE DY. COMMISSIONER, NAGAON
DIST.- NAGAON, ASSAM, PIN- 782001.

7:THE ADDL. DY. COMMISSIONER (MEEN), NAGAON
DIST.- NAGAON, ASSAM
PIN- 78200

For the Appellant : Mr. B.D. Das, Senior Advocate assisted by Mr. A.D. Choudhury, Advocate.

For the Respondents : Ms. M. Bhattacharjee, Additional Senior Government Advocate for respondent Nos.2, 4, 5, 6 and 7.

Mr. P. Sarma, Standing Counsel, AFDC for respondent No.3.

- B E F O R E -

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE ARUN DEV CHOUDHURY

01.06.2023

The instant writ appeal has been preferred by the appellant herein, who was respondent No.7 in the writ petition (successful bidder), being aggrieved of the order dated 19.04.2022 passed by the learned Single Bench in WP(C) No.3454/2020, whereby the writ petition preferred by the respondent No.1/writ petitioner was accepted and the Bid settlement of No.58 Lao Meen Mahal Fishery in the district of Nagaon made in favour of the appellant/respondent No.7 was interfered and the AFDC was directed to award the Bid settlement to the respondent No.1 herein.

Having heard and considered the submissions advanced by the learned counsel for the parties and after going through the impugned order and the other material placed on record, we find that the bid of the appellant was accepted and the bid of three other contenders including that of the respondent No.1/writ petitioner were rejected by the Managing Director, AFDC on the ground that their bids were technically defective.

The learned Single Bench, however, went to observe that in the case at hand, the writ petitioner (respondent No.1 herein) was considered to be a technically sound bidder and his financial bid offering Rs.11 lakh/year for the settlement was the highest and thus, the contract was awarded to him.

We find that the said observation of the learned Single Bench that the bid of the respondent No.1/writ petitioner was found technically sound was arrived at without giving any reasons for such an observation.

In the affidavit filed on behalf of the respondent AFDC, a pertinent assertion was made that the technical bid of the respondent No.1/writ petitioner was found defective.

It appears that the decision of the learned Single Bench was made on the basis of the order passed in the writ petitions, viz., WP(C) No.2762/2020 and WP(C) No.3420/2020 and as affirmed by the Division Bench by common judgment and order dated 05.02.2021 passed in WA Nos.8/2021 and 27/2021. It was held that these decisions would cover the controversy. However, no discussion was made by the learned Single Bench for drawing a parity in the facts discussed by the Court in the aforesaid two matters and those prevailing in the case at hand.

In this background, the impugned order dated 19.04.2022, having been passed without objective consideration and discussion of the material available on record, does not stand to scrutiny and is thus interfered and reversed.

The WP(C) No.3454/2020 shall be restored to its original number and shall be listed before the Bench having roster to hear and decide the same afresh as per law.

The writ appeal is allowed in the above terms.

No order as to costs.

JUDGE

CHIEF JUSTICE

Comparing Assistant