

GAHC010130342022



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

Case No. : WP(C)/4469/2022

ASHANUR KHAN
S/O SAHALOM KHAN, R/O DAILY BAZAR, WARD NO. 09, NORTH
LAKHIMPUR-787001, ASSAM

VERSUS

THE STATE OF ASSAM AND 7 ORS
REPRESENTED BY THE PRINCIPAL SECRETARY TO THE GOVERNMENT OF
ASSAM, HOUSING AND URBAN AFFAIRS DEPARTMENT, DISPUR,
GUWAHATI-781006, DIST-KAMRUP(M), ASSAM

2:THE DIRECTOR
DIRECTORATE OF MUNICIPAL ADMINISTRATION
ASSAM
DISPUR
GUWAHATI-781006

3:THE DEPUTY COMMISSIONER
LAKHIMPUR
NORTH LAKHIMPUR
787001
ASSAM

4:THE NORTH LAKHIMPUR MUNICIPAL BOARD
REPRESENTED BY ITS CHAIRMAN
NORTH LAKHIMPUR-786003
ASSAM

5:CASIO KARAN PEGU
THE EXECUTIVE OFFICER
DIBRUGARH
NORTH LAKHIMPUR MUNICIPAL BOARD

NORTH LAKHIMPUR-786003
ASSAM

6:DIGANTA CHANGMAL
WARD NO. 05
NORTH LAKHIMPUR
PIN-787001
ASSAM

7:JAKIR HUSSAIN
WARD NO. 14
NORTH LAKHIMPUR
PIN-787001
ASSAM

8:GOPAL RAJKHOWA
WARD NO. 08
NORTH LAKHIMPUR
PIN-787001
ASSA

Advocate for the Petitioner : MR. M BISWAS

Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI

ORDER

02.02.2023

Heard Shri M. Biswas, learned counsel for the petitioner. Also heard Shri D.K. Sharma, learned Addl. Senior Government Advocate, Assam and Shri B. Deori, learned counsel appearing for the respondent no. 5.

The petitioner is aggrieved by the decision of the authorities in declaring his bid to be non-responsive in connection with a Notice Inviting Tender dated 19.03.2022 for settlement of 5 markets under the North Lakhimpur Municipal Board. The term of the market was one year. It is the case of the petitioner that

he had submitted bids for all the 5 markets and was the highest bidder in two markets and second highest bidder in one market. However, the aforesaid 3 markets have been settled with the respondent nos. 6 to 8 vide settlement order dated 13.04.2022. It is the case of the petitioner that the bids offered by the said respondent nos. 6 to 8 were less than that of the petitioner and in tender notice which are meant for fetching of revenue, the quantum is of paramount significance. Accordingly, this writ petition has been filed.

Shri Biswas, the learned counsel for the petitioner submits that the reason which has been shown for his disqualification is that in the Term Deposit Receipt (TDR), there was anomaly in the name of the petitioner. While the name of the petitioner was 'Ashanur Khan', in the Term Deposit Receipt, it is written as 'Ashan Khan'. The learned counsel submits that the anomaly, if any was a curable one and a mere clarification could have been obtained from the authorities which has issued the Term Deposit Receipt.

On the other hand, Shri D.K. Sharma, the learned State Counsel submits that a valid Term Deposit Receipt is one of the mandatory requirements and the name appearing in the Term Deposit Receipt presented by the petitioner is a different one than that of the petitioner and therefore, the rejection has been done in a fair manner. The learned State Counsel further submits that it was incumbent of the petitioner to get any further clarification from the Authority issuing the TDR in case there was mistake in writing the name due to inadvertence.

There is no manner of doubt that Security Deposit in the form of Term Deposit Receipt is a mandatory requirement of the tender notice.

The TDR is required to be in the name of the petitioner and the discrepancy

in the name cannot be overlooked. Though the learned counsel for the petitioner has some justification in submitting that the settling authority would have got a clarification from the Bank in concern inasmuch as his bid was higher than that of the bid of the private respondent, considering that the period of settlement is almost over, this Court will refrain from making any opinion on that submission.

At the same time, this Court is of the view that any interference done at the verge of the settlement period may jeopardize the interest of the public service.

In that view of the matter, this Writ petition is closed. However, it is observed that there is no opinion expressed on the merits of the dispute.

JUDGE

Comparing Assistant