

GAHC010134862023



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

Case No. : WP(C)/3634/2023

ALI AKBAR AND ANR
S/O JAHIR UDDIN, VILL-BARUAJHAR, P.O.-BECHIMARI, P.S.-DALGAON,
DIST-DARRANG, ASSAM

2: MD. JAHURUL ISLAM
S/O NUR ISLAM
R/O VILL-NO. 3 BARUAJHAR
P.O.-BECHIMARI
P.S.-DALGAON
DIST-DARRANG
ASSA

VERSUS

THE STATE OF ASSAM AND 6 ORS
TO BE REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM, PANCHAYAT AND RURAL DEVELOPMENT
DEPARTMENT, DISPUR, GUWAHATI-6

2:THE DARRANG ZILLA PARISHAD
TO BE REPRESENTED BY THE CHIEF EXECUTIVE OFFICER
DARRANG ZILLA PARISHAD
MANGALDAI
P.O.-MANGALDAI
PIN-784125
DIST-DARRANG
ASSAM

3:THE CHAIRMAN
DARRANG ZILLA PARISHAD
P.O. AND P.S.- MANGALDAI
DIST-DARRANG
ASSAM
PIN-784514

4:THE CHIEF EXECUTIVE OFFICER
DARRANG ZILLA PARISHAD
P.O. AND P.S.-MANGALDOI
DIST-DARRANG
ASSAM
PIN-784514

5:THE DEPUTY COMMISSIONER
DARRANG
MANGALDOI
DIST-DARRANG
ASSAM

6:THE BECHIMARI ANCHALIK PANCHAYAT
(TO BE REPRESENTED BY EXECUTIVE OFFICER
P.O.-BECHIMARI
PIN-784514
DIST-DARRANG
ASSAM

7:THE PRESIDENT
BECHIMARI ANCHALIK PANCHAYAT
P.O.-BECHIMARI
DIST-DARRANG
ASSAM
PIN-78451

Advocate for the Petitioner : DR. B AHMED

Advocate for the Respondent : SC, P AND R.D.

**BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY**

ORDER

Date : 22-06-2023

Heard Mr. A.U. Ahmed, learned counsel for the petitioners; Mr. N.K. Debnath, learned Standing Counsel, Panchayat and Rural Development Department for the respondent nos. 1, 2, 3 & 4; and Mr. M. Chetia, learned Junior Government Advocate, Assam for the respondent no. 5.

2. Having regard to the nature of relief sought and as agreed to by the learned counsel for the parties, the writ petition is taken up for disposal at the motion stage itself.

3. By a Tender Notice dated 11.04.2023, Bechimari Anchalik Panchayat invited sealed bids for settlement of a number of markets, bus parking stands and a fishery for the Panchayat Financial Year : 2023 – 2024, that is, from 01.07.2023 to 30.06.2024. One of the markets for which sealed bids were invited by the Tender Notice dated 11.04.2023 was Bechimari Daily Vegetable Market [‘the Market’, for short] with an annual fixed value of Rs. 7,97,934/-. By the Tender Notice, the last date and time of submission of bids was fixed up-to 02-00 p.m., 06.06.2023.

4. The petitioners have contended that they were intending bidders for the Market. Immediately after publication of the Tender Notice dated 1.04.2023, the petitioners started preparing the tender papers for submission and during the interregnum, they had collected/obtained all the requisite documents/certificate necessary for submission along with their bids to be submitted for the Market. They had also made ready the earnest money in conformity with Clause 12 of the Tender Notice dated 11.04.2023 for an amount of Rs. 97,793/- but when the petitioners went to the office of Bechimari Anchalik Panchayat on 06.06.2023, they found to their surprise, there was no tender box for submission of the sealed bids for a long period of time. At a later point of time i.e. only from 01-00 p.m. up-to 02-00 p.m. on 06.06.2023, the authorities of Bechimari Anchalik Panchayat allowed only a few persons of their choice to submit their respective bids and the petitioners were prevented from submitting their bids in the process.

5. Mr. Ahmed, learned counsel for the petitioner has submitted that immediately on the next day i.e. on 07.06.2023, the petitioners submitted a complaint before the Deputy Commissioner, Darrang by bringing the alleged illegalities/irregularities occurred during the process of submission of bids at the office of Bechimari Anchalik Panchayat on 06.06.2023 to his notice. Though by making an endorsement on the body of the said complaint on 07.06.2023, the office of the Deputy Commissioner directed for an enquiry and for submission of a report within 2 [two] days thereafter, no effective steps are found to have been taken till date. Mr. Ahmed has further submitted that the Market has not been settled till date. It is submitted by him that finding no other option, the petitioners are compelled to approach this Hon'ble Court by the instant writ petition. It is further submitted by him that as the annual fixed value of the Market is fixed at Rs. 7,97,934/-, it is the jurisdictional Zilla Parishad i.e. Darrang Zilla Parishad which has the ultimate power of examination and final acceptance of Settlement of the Market under sub-section [6] of Section 109 of the Assam Panchayat Act, 1994. According to him, the entire process of bid submission for the Market are fraught with illegalities/irregularities, resulting in prevention of the petitioners from submitting their bids for the Market, a direction may be given to the competent authority to examine and enquire into the entire matter relating to alleged illegalities/irregularities occurred during the process of submission of bid for the Market on 06.06.2023.

6. Mr. Debnath, learned Standing Counsel, Panchayat & Rural Development Department and Mr. Chetia, learned Junior Government Adocate, Assam have submitted that as the process of submission of bids for the Market is over on 06.06.2023, any kind of alleged illegalities/irregularities, if occurred during the process of submission of bids, can be enquired into by the jurisdictional Zilla

Parishad i.e. Darrang Zilla Parishad through its Chief Executive Officer. They have, thus, submitted that the petitioner may submit a complaint highlighting the alleged illegalities/irregularities which, according to them, were committed during the process of submission of bids for the Market at the office of the Bechimari Anchalik Panchayat on 06.06.2023 and in the event such a complaint is submitted, the said authority can be directed to examine and enquire into the matter.

7. Mr. Ahmed, learned counsel for the petitioners has submitted that they are ready to file such complaint before the Darrang Zilla Parishad within 2 [two] days from today.

8. Having considered the submissions of the learned counsel for the parties and the projections, more particularly, the projections made on behalf of the petitioners as regards the alleged illegalities/irregularities stated to have occurred during the process of bid submissions at the office of the Bechimari Anchalik Panchayat on 06.06.2023 and in view of the broad consensus arrived at by the learned counsel for the parties, this Court is of the considered view that instead of keeping the writ petition pending as the process of settlement for the Market is likely to be completed soon, the writ petition can be disposed of with a direction to the petitioners to approach the Chief Executive Officer, Darrang Zilla Parishad by submitting a complaint/representation seeking redressal of their grievances regarding alleged commission of illegalities/irregularities occurred during the process of bid submission at the office of the Bechimari Anchalik Panchayat on 06.06.2023 in respect of the Market named Bechimari Daily Vegetable Market within 2 [two] days from today [22.06.2023] and if such complaint/representation is submitted by the petitioners within such period, the

respondent no. 4 i.e. the Chief Executive Officer, Darrang Zilla Parishad shall examine and enquire into the matter by giving due hearing to the petitioners and thereafter, take appropriate steps and/or pass necessary order, as found deemed and proper, on the complaint/representation, to be submitted by the petitioners, within 7 [seven] days from the date of receipt of such complaint/representation from the petitioners. The decision taken on the complaint/representation of the petitioners is to be communicated to the petitioners forthwith. The petitioner shall submit a certified copy of this order along with their complaint/representation. It is, however, made clear that this Court has not made any observations as regards the merits of the claims of the petitioners.

9. This order disposes of the writ petition.

JUDGE

Comparing Assistant