

GAHC010138802023



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

Case No. : WP(C)/3689/2023

SAYED ALI AND 2 ORS.

S/O- LATE SAHED ALI, VILLAGE NO. 1 CHIKANMATI, P.O. BECHIMARI,
PIN- 784514, DIST. DARRANG, ASSAM

2: JINNAT ALI

S/O- LATE SAHED ALI
VILLAGE NO. 1 CHIKANMATI
P.O. BECHIMARI
PIN- 784514
DIST. DARRANG
ASSAM

3: ABDUL BAREK

S/O- LATE KOLIM UDDIN
VILL.- GANDA PUKHURI
P.O. LALPOOL
PIN- 784514
DIST. DARRANG
ASSA

VERSUS

THE STATE OF ASSAM AND 6 ORS.

REPRESENTED BY THE PRINCIPAL SECRETARY TO THE GOVT. OF ASSAM,
PANCHAYAT AND RURAL DEVELOPMENT DEPARTMENT, DISPUR,
GUWAHATI-781006.

2:THE DEPUTY COMMISSIONER

DARRANG
MANGALDAI
P.O. AND DIST. DARRANG
ASSAM
PIN- 784125.

3:THE CHIEF EXECUTIVE OFFICER

DARRANG ZILLA PARISHAD
MANGALDAI
P.O. AND DIST. DARRANG
ASSAM
PIN- 784125.

4:THE BECHIMARI ANCHALIK PANCHAYAT
REPRESENTED BY ITS PRESIDENT

P.O. BECHIMARI
DIST. DARRANG
ASSAM
PIN- 784514.

5:THE EXECUTIVE OFFICER

BECHIMARI ANCHALIK PANCHAYAT
P.O. BECHIMARI
DIST. DARRANG
ASSAM
PIN- 784514.

6:THE OFFICER IN-CHARGE
DALGAON POLICE STATION

P.O. DALGAON
DIST. DARRANG
ASSAM
PIN- 784514.

7:JAINUDDIN AHMED
PRESIDENT OF BECHIMARI ANCHALIK PANCHAYAT

S/O- LATE HAZRAT ALI
VILL. NO. 4 BARUAJHAR
P.O. BECHIMARI
DIST. DARRANG
ASSAM
PIN- 784514

Advocate for the Petitioner : MR J ABEDIN

Advocate for the Respondent : GA, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY**

ORDER

Date : 28-06-2023

Heard Mr. J. Abedin, learned counsel for the petitioners; Mr. N.K. Debnath, learned Standing Counsel, Panchayat & Rural Development [P&RD] Department for the respondent nos. 1, 3, 4 & 5; and Mr. S. Baruah, learned Junior Government Advocate, Assam for the respondent nos. 2 & 6.

2. Having regard to the projections made in this writ petition; the submissions made by the learned counsel for the parties and considering the relief sought for by the petitioners, as have emerged from the submissions, 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. Three of the markets for which sealed bids were invited by the Tender Notice dated 11.04.2023 were [i] Bechimari Daily Vegetable Market; [ii] Bechimari Weekly Cattle Market; and [iii] Lalpul Weekly Cattle Market, [collectively also referred to as 'the Markets', for brevity] with annual fixed values of Rs. 7,79,934/-, Rs. 2,46,235/- and Rs. 5,04,570/- respectively. 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 afore-mentioned three Markets. Immediately after publication of the Tender

Notice dated 11.04.2023, the petitioners started preparing for their tender papers for submission and during the interregnum and by the last date of submission of bid, they had collected/obtained all the requisite documents/certificate necessary for submission along with their bids to be submitted for the Markets. They had also made ready the earnest money amounts in conformity with Clause 12 of the Tender Notice dated 11.04.2023. But when the petitioners went to the office of Bechimari Anchalik Panchayat on 06.06.2023 to submit their bids, they found to their surprise that there were no tender boxes for submission of the sealed bids for the three Markets 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 for the Markets and the petitioners were prevented from submitting their bids in the process. The petitioners have further contended that such an anomalous situation was created at the behest of the respondent no. 5 and the respondent no. 7.

5. Mr. Abedin, learned counsel for the petitioners 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. The petitioners have also submitted a representation/letter on 07.06.2023 before the Chief Executive Officer, Darrang Zilla Parishad bringing

the alleged illegalities/irregularities occurred during the process of submission of bids at the office of Bechimari Anchalik Panchayat. 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.

6. Mr. Abedin has further submitted that taking note of the alleged illegalities/irregularities brought by the representation/letter dated 07.06.2023 before the Chief Executive Officer, Darrang Zilla Parishad, the Chief Executive Officer, Darrang Zilla Parishad by his letter bearing no. DZP/Bazaar/Gen/1197/2023-24/774 dated 19.06.2023 has forwarded the entire matter to the Deputy Commissioner, Darrang enclosing therewith a report of the Executive Officer, Bechimari Anchalik Panchayat. By forwarding the entire matter, the Chief Executive Officer, Darrang Zilla Parishad has requested the Deputy Commissioner, Darrang to ascertain the validity of the allegations made in the representation/letter. According to Mr. Abedin, since the entire process of bid submission for the Markets are fraught with illegalities/irregularities, resulting in prevention of the petitioners from submitting their bids for the Markets, the entire bidding process is required to be interfered with or 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 bids for the three Markets on 06.06.2023 at the office of Bechimari Anchalik Panchayat.

7. Mr. Debnath, learned Standing Counsel, Panchayat & Rural Development [P&RD] Department has submitted that as the process of submission of bids for the Markets is already 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 an appropriate authority. He has submitted that on an earlier date, another writ petition, W.P.[C] no. 3634/2023 wherein similar kind of allegations were made, has been disposed of by an order dated 22.06.2023 by directing the Chief Executive Officer, Darrang Zilla Parishad to consider the representation/letter to be submitted by the petitioners therein. In the writ petition, W.P.[C] no. 3634/2023, allegations of illegalities/irregularities occurred during the process of submission of bids for the market named Bechimari Daily Weekly Vegetable Market, one of the three Markets involved herein, were made. He has further submitted that as it appears from the letter dated 19.06.2023 of the Chief Executive Officer, Darrang Zilla Parishad that the said authority has forwarded the entire matter to the office of the Deputy Commissioner, Darrang for causing a Magisterial Enquiry, the present writ petition can be disposed of with a direction to the Deputy Commissioner, Darrang to enquire into the entire matter, notwithstanding the earlier direction made in the order dated 22.06.2023 passed in the writ petition, W.P.[C] no. 3634/2023 to the Chief Executive Officer, Darrang Zilla Parishad to examine and enquire the matter as he himself had, in turn, forwarded the entire matter, on 19.06.2023, to the Deputy Commissioner, Darrang.

8. Mr. Baruah, learned Junior Government Advocate, Assam has submitted that since there are allegations of commission of illegalities/irregularities in the process of submission of bids in respect of the bidding process initiated by the Tender Notice dated 11.04.2023 and the petitioners have categorically asserted that because of such alleged illegalities/irregularities, it would result in settlement of the Markets at much lesser prices which, in turn, will have an

adverse effect on the State Exchequer, the writ petition may be disposed of with a direction to the respondent no. 2 to take the representation/letter of the intending bidders who have already submitted their representations/letters, on board and to consider the same and for that purpose of considering the matter, he can also take into consideration the reports of the Executive Officer, Bechimari Anchalik Panchayat and the Chief Executive Officer, Darrang Zilla Parishad.

9. Having considered the submissions of the learned counsel for the parties; having regard to the nature of direction already made in the order dated 22.06.2023 passed in the writ petition, W.P.[C] no. 3634/2023 wherein similar kinds of contentions were made; and as the bidding process of settlement for the Markets are likely to be completed soon, this Court is of the considered view that instead of keeping it pending, the writ petition can be disposed of with a direction to the respondent no. 2 to take the grievances raised by the petitioners in the representations/letters already submitted by them about the illegalities/irregularities stated to have been occurred during the process of submission of bids at the office of Bechimari Anchalik Panchayat on 06.06.2023 and the reports of Bechimari Anchalik Panchayat and Darrang Zilla Parishad which have already been forwarded to his office by the Chief Executive Officer, Darrang Zilla Parishad by his letter dated 19.06.2023, into consideration. After giving opportunities of hearing, if found necessary to the petitioners and other stakeholders, the respondent no. 2 upon due consideration, shall take appropriate steps and/or pass necessary orders, as deemed fit and proper. It is accordingly ordered. The petitioners shall submit a certified copy of this order along with a copy of the writ petition with annexures within 2 [two] working

days from today. The decision so taken by the respondent no. 2 is to be appropriately communicated to the petitioners thereafter forthwith. It is expected that the respondent no. 2 shall consider the entire matter as expeditiously as possible, preferably within a period of 15 [fifteen] days from the date of such receipt of a copy of this order. It is, however, made clear that this Court has not made any observations as regards the merits of the claims of the petitioners and the respondent no. 2 shall consider the entire matter by taking into consideration all the facts and circumstances of the case and decide on its own merits in accordance with law.

10. This order disposes of the writ petition. No cost.

JUDGE

Comparing Assistant