

GAHC010155352023



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

Case No. : WP(C)/4059/2023

SAHIDUL ISLAM
S/O AZIZUR RAHMAN, VILL AND P.O.-AHOPA, P.S.-MUSHALPUR, DIST-
BAKSA, PIN-781376

VERSUS

THE STATE OF ASSAM AND 5 ORS
REPRESENTED BY THE SECRETARY TO THE GOVT. OF ASSAM, DEPTT. OF
PANCHAYAT AND RURAL DEVELOPMENT, DISPUR, GUWAHATI-06

2:THE PRINCIPAL SECRETARY
BTC
KOKRAJHAR
PIN-783389

3:THE SECRETARY
MARKET AND FAIRS DEPTT.
KOKRAJHAR
PIN-783333

4:THE DEPUTY COMMISSIONER
DIST-BAKSA
PIN-781333

5:THE BLOCK DEV. OFFICER
DHAMDHAMA DEV. BLOCK
DHAMDHAMA
DIST-BAKSA
PIN-781372

6:MANOJ KUMAR GOYARI
S/O DHARANI GOYARI
VILL-CHAULKARA
P.O.-NIKASHI

DIST-BAKSA
78137

Advocate for the Petitioner : MR. A ROSHID

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

BEFORE
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI

ORDER

28.11.2023

Heard Shri A. Roshid, learned counsel for the petitioner. Also heard Shri B. Choudhury, learned Standing Counsel, BTC; Shri Bokolial, learned State Counsel and Ms. P. Biswas, learned counsel appearing on instructions of Shri S. Dutta, learned Standing Counsel, P&RD Department.

Considering the subject matter and also the fact that the term of the concern settlement is for one year, this writ petition is taken up for disposal at the admission stage.

An NIT was floated on 24.05.2023 for settlement of Nikashi-Bi-Weekly Market for the year 2023-24 in the district of Baksa. The Government value was given to be Rs.1,26,420/-.The bid offered by the petitioner was Rs. 3,01,001/- whereas the bid of the respondent no. 6 was Rs. 2,52,838/-. The petitioner however is aggrieved by the action of the respondents by which the settlement of the market in question has been given to the respondent no. 6.

Shri Roshid, the learned counsel for the petitioner has submitted that in matters of distribution of state largesse which pertains to fetching of revenue, the amount offered would be of relevant consideration and in this case, there is a vast difference with the offer made by the petitioner and the respondent no. 6.

On the other hand, Shri Choudhury, the learned Standing Counsel, BTC has submitted that though the offer made by the petitioner was the highest and more

than that of the respondent no. 6, the comparative statement would itself reveal that the petitioner did not submit the original land documents namely the Jamabandi which is a mandatory requirement. The learned Standing Counsel accordingly submits that the decision to offer the settlement in question to the respondent no. 6 cannot be faulted with as the petitioner did not fulfill a mandatory requirement.

Shri Bokolia, the learned State Counsel and Ms. Biswas, the learned counsel for the Department endorse the submissions of Shri Choudhury, the learned Standing Counsel, BTC.

Rejoining his submission, Shri Roshid, the learned counsel for the petitioner submits that the impugned action is not sustainable because of the fact that the offer made by the petitioner was actually fulfilled as the petitioner had deposited the entire amount by way of demand draft. He further submits that the requirement of submitting original land documents is only as a matter of security and since the petitioner had deposited the entire offered amount, such requirement has become redundant.

The rival submissions have been duly considered and the materials placed before this Court have been carefully examined.

With regard to the appearance of the respondent no. 6, this Court vide order dated 20.09.2023 had observed that service upon the respondent no. 6 is complete. It appears that the respondent no. 6 is not interested to contest the case.

The projection made by the petitioner is that his offer being the highest, grant of the settlement of the market to the respondent no. 6 is unsustainable in law. Though such submission normally was liable to be accepted, in the instant case, the reasons which appears from the records as well as the Comparative Statement is that the petitioner did not submit original land documents, more particularly the Jamabandi. The requirement of submitting original land document is a mandatory requirement which cannot be done away with. The submissions made by Shri Roshid,

the learned counsel for the petitioner that such requirement in the instant case has become redundant in view of the fact that the petitioner had deposited the entire amount by way of demand draft is not liable to be accepted by this Court inasmuch it is not only the question of amount offered by a party but his antecedents and other factors which are also to be examined. The authorities cannot be left with no option to make the selection of the best persons whose offer is also viable as well as his antecedents are known.

In view of the above, this Court is of the opinion that the reasons for the impugned action cannot be found fault with and accordingly this writ petition is dismissed.

At this stage, Shri Roshid, the learned counsel on a pointed query from this Court has submitted that the original documents are in his possession and it is only due to inadvertence that the photocopies of the same were presented along with the deed.

In view of such submission, while dismissing this writ petition, the petitioner is given liberty to approach the appropriate authorities by renewing his offer and submitting the original land documents. If such application is filed by following the conditions mentioned above, the BTC authorities may consider the same in accordance with law, more so in view of the fact that the offer of the petitioner is more than that of the respondent no. 6 by almost Rs. 50,000/-.

Since the tenure of the settlement is said to be of one year, in the event, the application as mentioned above is submitted, such application be disposed of within a period of 15 days from the receipt of the same.

Writ petition accordingly stands disposed of.

JUDGE

Comparing Assistant