

GAHC010038822020



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

Case No. : WP(C)/1234/2020

MOHAMED MUSTAFA
S/O- HAJI MD. HANIF, R/O- ISLAMPUR, GUWAHATI- 781007, KAMRUP(M),
ASSAM.

VERSUS

THE STATE OF ASSAM AND 2 ORS.
REP. BY THE COMM. AND SECY. TO THE GOVT. OF ASSAM,
ENVIRONMENT AND FOREST DEPTT., DISPUR, GHY.-06.

2:THE PRINCIPAL CHIEF CONSERVATOR OF FORESTS (WILDLIFE)
ASSAM
PANJABARI
GUWAHATI- 37.

3:THE DIVISIONAL FOREST OFFICER
ASSAM STATE ZOO DIVISION
GUWAHATI- 05

Advocate for the Petitioner : MR. D DAS SR. ADV

Advocate for the Respondent : GA, ASSAM

Linked Case : Review.Pet./137/2019

THE STATE OF ASSAM AND 2 ORS.
REP. BY ITS COMMISSIONER AND SECRETARY
ENVIRONMENT AND FOREST DEPARTMENT

DISPUR
GUWAHATI-06.

2: THE PRINCIPAL CHIEF CONSERVATOR OF FOREST (WILDLIFE)
ASSAM
PANJABARI
GUWAHATI-37.

3: THE DIVISIONAL FOREST OFFICER

ASSAM STATE ZOO DIVISION
GUWAHATI- 05.
VERSUS

SANJIV KR. ROY
S/O- SRI LAKHINDAR RAY
R/O- SENAPATI ROAD
SILPUKHRI
GUWAHATI- 781003.

Advocate for : MR. D MOZUMDER
Advocate for : MR. H NATH appearing for SANJIV KR. ROY

Linked Case : WP(C)/1236/2020

MD. YASIN
S/O LATE HAJI IBRAHIM
R/O NOTBOMA
SIJUBARI
HATIGAON
GUWAHATI-781038
KAMRUP(M)
ASSAM

VERSUS

THE STATE OF ASSAM AND 2 ORS.
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM
ENVIRONMENT AND FOREST DEPARTMENT
DISPUR
GUWAHATI-6

2:THE PRINCIPAL CHIEF CONSERVATOR OF FORESTS (WILDLIFE)
ASSAM
PANJABARI
GUWAHATI-37

3:THE DIVISIONAL FOREST OFFICER
ASSAM STATE ZOO DIVISION
GUWAHATI-05

Advocate for : MR. D DAS SR. ADV
Advocate for : GA
ASSAM appearing for THE STATE OF ASSAM AND 2 ORS.

Linked Case : Review.Pet./136/2019

THE STATE OF ASSAM AND 2 ORS.
REP. BY ITS COMMISSIONER AND SECRETARY
ENVIRONMENT AND FOREST DEPARTMENT
DISPUR
GUWAHATI-06.

2: THE PRINCIPAL CHIEF CONSERVATOR OF FOREST (WILDLIFE)
ASSAM
PANJABARI
GUWAHATI-37.

3: THE DIVISIONAL FOREST OFFICER

ASSAM STATE ZOO DIVISION
GUWAHATI- 05.
VERSUS

MOHAMMED MUSTAFA
S/O- HAJI MD. HANIF
R/O- ISLAMPUR
GUWAHATI- 781007.

Advocate for : MR. D MOZUMDER
Advocate for : MR. H NATH appearing for MOHAMMED MUSTAFA

Linked Case : Review.Pet./135/2019

THE STATE OF ASSAM AND 2 ORS.

REP. BY ITS COMMISSIONER AND SECRETARY
ENVIRONMENT AND FOREST DEPARTMENT
DISPUR
GUWAHATI-06.

2: THE PRINCIPAL CHIEF CONSERVATOR OF FOREST (WILDLIFE)
ASSAM
PANJABARI
GUWAHATI-37.

3: THE DIVISIONAL FOREST OFFICER

ASSAM STATE ZOO DIVISION
GUWAHATI- 05.
VERSUS

M/S OASIS ENTERPRISES
A PROPRIETORSHIP FIRM HAVING ITS OFFICE AT A. K. ROAD
DHIRENPARA
GUWAHATI-22
REP. BY ITS PROPRIETOR SARFARZ ALI
AGED ABOUT 34 YEARS.

Advocate for : MR. D MOZUMDER
Advocate for : MR. H NATH appearing for M/S OASIS ENTERPRISES

Linked Case : WP(C)/1235/2020

M/S. OASIS ENTERPRISES
A PROPRIETORSHIP FIRM
HAVING ITS OFFICE AT A.K. DEB ROAD
DHIRENPARA
GUWAHATI-25
REP. BY ITS PROPRIETOR SARFARZ ALI AGED ABOUT 36 YEARS

VERSUS

THE STATE OF ASSAM AND 2 ORS.
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM
ENVIRONMENT AND FOREST DEPTT. DISPUR
GUWAHATI-6

2:THE PRINCIPAL CHIEF CONSERVATOR OF FORESTS (WILD LIFE)

ASSAM
PANZABARI
GUWAHATI-37
3:THE DIVISIONAL FOREST OFFICER
ASSAM STATE ZOO DIVISION
GUWAHATI-05

Advocate for : MR. D DAS SR. ADV
Advocate for : GA
ASSAM appearing for THE STATE OF ASSAM AND 2 ORS.

Linked Case : Review.Pet./139/2019

THE STATE OF ASSAM AND 2 ORS.
REP. BY ITS COMMISSIONER AND SECRETARY
ENVIRONMENT AND FOREST DEPARTMENT
DISPUR
GUWAHATI-06.

2: THE PRINCIPAL CHIEF CONSERVATOR OF FOREST (WILDLIFE)
ASSAM
PANJABARI
GUWAHATI-37.

3: THE DIVISIONAL FOREST OFFICER

ASSAM STATE ZOO DIVISION
GUWAHATI- 05.
VERSUS

SRI KISHOR SINGH
S/O- LATE RAGHU PRASAD SINGH
R/O- NOONMATI BISNU RABHA NAGAR
GUWAHATI- 781120.

Advocate for : MR. D MOZUMDER
Advocate for : MR. H NATH appearing for SRI KISHOR SINGH

Linked Case : Review.Pet./134/2019

THE STATE OF ASSAM AND 2 ORS.
REP. BY ITS COMMISSIONER AND SECRETARY

ENVIRONMENT AND FOREST DEPARTMENT
DISPUR
GUWAHATI-06.

2: THE PRINCIPAL CHIEF CONSERVATOR OF FOREST (WILDLIFE)
ASSAM
PANJABARI
GUWAHATI-37.

3: THE DIVISIONAL FOREST OFFICER

ASSAM STATE ZOO DIVISION
GUWAHATI- 05.
VERSUS

MD. KASAIM
S/O- LATE HAJI KAMRUDDIN
R/O- NEAR GMC MARKET
PALTAN BAZAR
GUWAHATI- 781008.

Advocate for : MR. D MOZUMDER
Advocate for : MR. H NATH appearing for MD. KASAIM

Linked Case : Review.Pet./138/2019

THE STATE OF ASSAM AND 2 ORS.
REP. BY ITS COMMISSIONER AND SECRETARY
ENVIRONMENT AND FOREST DEPARTMENT
DISPUR
GUWAHATI-06.

2: THE PRINCIPAL CHIEF CONSERVATOR OF FOREST (WILDLIFE)
ASSAM
PANJABARI
GUWAHATI-37.

3: THE DIVISIONAL FOREST OFFICER

ASSAM STATE ZOO DIVISION
GUWAHATI- 05.
VERSUS

SRI RANJIT KAUSHIK

S/O- LATE DHIREN SABHAPANDIT
R/O- H/NO. 10
PINAKI PATH
ZOO ROAD TINIALI
GUWAHATI
DIST.- KAMRUP(M)
ASSAM- 781003.

Advocate for : MR. D MOZUMDER
Advocate for : MR. H NATH appearing for SRI RANJIT KAUSHIK

Linked Case : Review.Pet./140/2019

THE STATE OF ASSAM AND 2 ORS.
REP. BY ITS COMMISSIONER AND SECRETARY
ENVIRONMENT AND FOREST DEPARTMENT
DISPUR
GUWAHATI-06.

2: THE PRINCIPAL CHIEF CONSERVATOR OF FOREST (WILDLIFE)
ASSAM
PANJABARI
GUWAHATI-37.

3: THE DIVISIONAL FOREST OFFICER

ASSAM STATE ZOO DIVISION
GUWAHATI- 05.
VERSUS

MD. YASIN
S/O- LATE HAJI IMBRAHIM
R/O- NOTBOMBA
SIJUBARI
HATIGAON
GUWAHATI- 781038.

Advocate for : MR. D MOZUMDER
Advocate for : MR. H NATH appearing for MD. YASIN

BEFORE
HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

Date of Hearing : 09.02.2022

Date of Judgment : 30.08.2023

JUDGMENT AND ORDER (CAV)

Heard Mr. D. Das, learned Senior counsel assisted by Mr. R. Sarma, learned counsel for the writ petitioners in WP(C) Nos. 1234/2020, 1235/2020, 1236/2020; WP(C) Nos. 7664/2018, 7665/2018, 7668/2018, 7669/2018, 7675/2018, 7676/2018 as well as for the respondents in Review Petition Nos. 134/2019, 135/2019, 136/2019, 137/2019, 139/2019 and 140/2019. Also heard, Mr. P. P. Dutta, learned counsel for the respondent in Review Petition No. 138/2019 as well as for the petitioner in WP(C) No. 8067/2018. Mr. P. N. Goswami, learned Additional Advocate General, Assam appeared for the respondents in the Environment and Forest Department of the State in all the writ petitions and also for the Review Petitioners.

2) The contentions of the writ petitioners herein are that violating the common judgment and order dated 04.06.2019, the Divisional Forest Officer, Assam State Zoo Division on 10.02.2020 issued fresh E-Tender Notice inviting online tender — (A) in WP(C) No. 1234/2020 for supplying Beef Meat for Zoo captive of the Assam State Zoo for a period of 1 (one) year specifying the value of work at Rs.90,00,000/-; (B) in WP(C) No. 1235/2020 for supplying of Vegetables and Fruits for Zoo captive of the Assam State Zoo for a period of 1 (one) year specifying the value of work at Rs.60,00,000/- and (C) in WP(C) No. 1236/2020 for supplying of Groceries and Other Miscellaneous items for Zoo captive of the Assam State Zoo for a period of 1 (one) year specifying the value of work at Rs.90,00,000/-; informing that the tender document can be downloaded by the bidder from the website notified in the said Tender Notice from 10.02.2020 to 01.03.2020 where the last date of submission of bid was 02.03.2020 at 11:30 AM and the tender shall be opened on 02.03.2020 at 03:00 PM.

3) In WP(C) No. 1234/2020 (*Mohamed Mustafa -Vs- State of Assam and 2 others*), the petitioner contended that Beef Meat have to be supplied four days in a week and Beef Liver to be supplied twice weekly and that the said NIT dated 10.02.2020 amongst others provided in Clause 1(i) and in Clause 1(h) that the rates offered should not be more than maximum retail price and further provided that abnormally low offered rates will be rejected. But the tender document did not provide the maximum retail price as well as also did not provide as to what would constitute

abnormally low rates leaving such criteria to the subjective decision of the tendering authority that cannot be evaluated objectively. The petitioners also urged that the estimated value of the entire work at Rs.90,00,000/- is not feasible in comparison to the prevailing market rate as per the tender document items of Beef Meat and Beef Liver have to be supplied for the entire year and taking into account the prevailing market rate, those items to be supplied as provided in the tender then the total rate of cost would exceed more than 1 Crore excluding the cost incurred in transportation and taxation etc. thereby the NIT dated 10.02.2020 is impossible to perform at the value estimated by the respondent authorities.

4) In WP(C) No. 1235/2020 (*Oasis Enterprises -Vs- State of Assam and 2 others*), the petitioner contended that Vegetables and Fruits for Zoo captive have to be supplied for the entire period of one year and that the said NIT dated 10.02.2020 amongst others provided in Clause 1(i) and in Clause 1(h) that the rates offered should not be more than maximum retail price and further, provided that abnormally low offered rates will be rejected. But the tender document did not provide the maximum retail price as well as also did not provide as to what would constitute abnormally low rates leaving such criteria to the subjective decision of the tendering authority that cannot be evaluated objectively. The petitioner also urged that the estimated value of the entire work at Rs.60,00,000/- is not feasible in comparison to the prevailing market rate as per the tender document items of vegetables and fruits that are to be supplied for the entire year have been clubbed together and are to be supplied together. Taking into account the prevailing market rates of those items to be supplied as provided in the tender the petitioner stated that the total rate of cost would exceed more than 1 Crore excluding the cost incurred in transportation and taxation etc. thereby the NIT dated 10.02.2020 is impossible to perform at the value estimated by the respondent authorities.

5) In WP(C) No. 1236/2020 (*Md. Yasin -Vs- State of Assam and 2 others*) the petitioner contended that Groceries and other Miscellaneous items for Zoo captive have to be supplied for the entire period of one year and that the said NIT dated 10.02.2020 amongst others provided in Clause 1(i) and in Clause 1(h) that the rates offered should not be more than maximum retail price and further provided that abnormally low offered rates will be rejected. But the tender document did not provide the maximum retail price as well as also did not provide as to what would constitute abnormally low rates leaving such criteria to the subjective decision of the tendering authority that cannot be evaluated objectively. The petitioner also urged that the

estimated value of the entire work at Rs.90,00,000/- is not feasible in comparison to the prevailing market rate as per the tender document groceries items and other miscellaneous items that are to be supplied for the entire year have been clubbed together and are to be supplied together. Taking into account the prevailing market rates of those items to be supplied as provided in the tender the petitioner stated that the total rate of cost would exceed much more than 1 Crore excluding the cost incurred in transportation and taxation etc. thereby the NIT dated 10.02.2020 is impossible to perform at the value estimated by the respondent authorities.

6) The petitioners stated that the short E-Tender dated 10.02.2020 being in violation of the direction issued vide common judgment and order dated 04.06.2019 in WP(C) No. 7668/2018 and other connected cases should be set aside and quashed.

7) Petitioners have also prayed for a direction to the respondent authorities in the Environment and Forest Department to forebear from giving effect to the said short E-Tender dated 10.02.2020 and also prayed for stay of the said short E-Tender dated 10.02.2020. Further, the petitioner of WP(C) No. 1234/2020 has prayed for a direction to the respondent authorities in the Environment and Forest Department to award the contract in favour of the petitioner in respect of Meat, Fish and Egg category with the Beef items as per the NIT dated 27.07.2018 that was issued by the Divisional Forest Officer, Assam State Zoo for supply of ration item to the Zoo captives of Assam. Similarly, the petitioner of WP(C) No. 1235/2020 has prayed for a direction to the respondent authorities in the Environment and Forest Department to award the contract in favour of the petitioner in respect of Item Nos. 1 to 14 under Perishable Item Category as per the NIT dated 27.07.2018 that was issued by the Divisional Forest Officer, Assam State Zoo for supply of ration item to the Zoo captives of Assam. In the same way, the petitioner of WP(C) No. 1236/2020 has prayed for a direction to the respondent authorities in the Environment and Forest Department to award the contract in favour of the petitioner in respect of Item Nos. 59 to 63 under Grocery Items Category as per the NIT dated 27.07.2018 that was issued by the Divisional Forest Officer, Assam State Zoo for supply of ration item to the Zoo captives of Assam.

8) The Court after considering the matters on 19.02.2020 passed an order of status quo as on said date in respect of the said short E-Tender dated 10.02.2020.

9) Brief facts of the case is that the Divisional Forest Officer (DFO, in short), Assam State Zoo Division (ASZ Div., in short) on 26.05.2017 issued tender for supply of Food Stuff for the Zoo captives of Assam State Zoo, Guwahati under various ration groups for the year 2017-2018. The

petitioners in terms of the said tender dated 26.05.2017 were awarded contracts for supply of Food Stuff for different groups and the quantity of food stuff to be supplied were as per the terms of the contract. But from November, 2017, quantities of Food Stuff to be supplied by the contractors for consumption by Zoo captives were allegedly reduced. The contractors were aggrieved by the unilateral decision of the DFO, ASZ Div. in reducing the quantity of Food Stuff without holding any discussion with them and for such action, the contractors concerned alleged that they suffered loss and in that process it adversely affected the health of the Zoo captives.

10) The contractors approached the DFO, ASZ Div., requesting him to accept supply of Food Stuff as per quantity specified in the NIT. As there was no response, the contractors approached the Principal Chief Conservator of Forests (Wildlife) by submitting representation dated 13.12.2017 followed by another representation dated 12.06.2018. The Principal Chief Conservator of Forests (Wildlife) on 29.06.2018 directed the DFO, ASZ Div. to report within a period of one week after examining the issue from the perspective of perceived loss by contractors, tender details, legal angle and animal management. While those representations of the contractors were pending for the decision by the Principal Chief Conservator of Forests (Wildlife), the DFO, ASZ Div. on 27.07.2018 issued fresh NIT for supplying of Food Stuff materials for Zoo captives of the Assam State Zoo for a period of one year.

11) In the said circumstances, those contractors twelve in numbers, joined together and as the petitioners preferred a writ petition being WP(C) No. 5723/2018 (*Sanjib Roy and 11 Others Vs. State of Assam and 2 Others*) seeking a direction to the respondent authorities in the Environment and Forest Department of the State not to proceed with the Notice Inviting Tender (NIT) dated 27.07.2018 published in the newspaper on 31.07.2018, alleging the grounds noted above and contending further that without addressing their grievances, the DFO, ASZ Div could not have issued the said fresh NIT dated 27.07.2018.

12) Though by order dated 21.08.2018, the Court disposed of said WP(C) No. 5723/2018 without interfering with the said NIT dated 27.07.2018, holding that non-consideration of grievances of the tenderers (contractors/petitioners) of the previous year cannot be a ground for declaring the subsequent NIT null and void, but at the same time, the Court viewed that the grievances of the petitioners as forwarded by the Principal Chief Conservator of Forests (Wildlife) in his letter dated 29.06.2018 needs to be examined by the DFO, ASZ Div. pointing out that as in the new NIT dated 27.07.2018 that was under challenge, the tendering authority had clarified in

Clause 2(b) that the quantities specified in the tender form are for tender purpose only and that represents the basis of unit for ease of pricing where actual quantity may vary between minimum annual quantity to maximum annual quantity; therefore, in that light, the DFO, ASZ Div. was directed to take a decision on the grievances of the petitioners/aggrieved contractors as forwarded to him by the Principal Chief Conservator of Forests (Wildlife) on 29.06.2018, within a period of four weeks from the date of receipt of a certified copy of the said order.

13) The present petitioners were among those twelve petitioners of WP(C) No. 5723/2018 and they submitted the certified copy of the said order dated 21.08.2018 before the authorities in the Environment and Forest Department concerned and also participated in the tender process pertaining to the said NIT dated 27.07.2018 with regard to the supply of Food Stuff to the Zoo captive of the Assam State Zoo for the year 2018-2019.

14) By letter dated 31.08.2018, the DFO, ASZ, Div informed the contractors/settlement holders of the Food Stuff to the Zoo captive of the Assam State Zoo of the year 2017-2018 (pursuant to the NIT dated 12.06.2017) including the petitioners that as the fresh tender for Ration supply for the year 2018-2019 has not been finalized, therefore, as per tender Clause 12, the old settlement holders were requested to continue the Ration supply till final settlement of new tender. By the said letter, the DFO, ASZ, Div also requested those ration suppliers including the petitioners to note that the terms and conditions laid down in the concerned tender notice, an agreement made with them would remain same and no enhancement of rates will be considered under any circumstances.

15) With regard to the said NIT dated 27.07.2018, the authorities in the Environment and Forest Department concerned on 29.08.2018 opened the bids submitted by the tenderers including that of the petitioners wherein the petitioner of WP(C) No. 1234/2020 was found to be the L1 bidder in respect of Beef under the Meat, Fish and Egg category; petitioner of WP(C) No. 1235/2020 was found to be the L1 bidder in respect of Item Nos. 1 to 14 under the category of Perishable items and the petitioner of WP(C) No. 1236/2020 was found to be the L1 bidder in respect of item Nos. 59 to 63 under Grocery items category in respect of materials for the Zoo captives pertaining to the year 2018-2019. By Notice dated 12.10.2018, the DFO, ASZ Div. informed that due to technical reasons, the tender for supply of ration and materials for the Zoo captives for the year 2018-2019 has been cancelled, informing further that the next date for retender will be issued shortly.

16) Subsequently the said DFO, ASZ Div. on 24.10.2018, 25.10.2018 and 28.10.2018 issued four separate E-Tender notices inviting online bids for supply of (i) Mutton/Chicken/Egg for a period of 1 (one) year with the estimated value of the contract at Rs.42,00,000/-; (ii) Beef for a period of 1 (one) year with the estimated value of the contract at Rs.1,25,00,000/-; (iii) Fodder Grass for a period of 1 (one) year with the estimated value of the contract at Rs.43,00,000/- and (iv) Tree Leaves for a period of 1 (one) year with the estimated value of the contract at Rs.35,00,000/-.

17) Being aggrieved, the petitioners and others preferred their individual writ petitions being WP(C) No. 7668/2018 (*Md. Yasin Vs. The State of Assam & 2 Ors*), WP(C) No. 7664/2018 (*Sanjiv Kumar Roy Vs. The State of Assam & 2 Ors*), WP(C) No. 7665/2018 (*Kasaim Vs. The State of Assam & 2 Ors.*), WP(C) No. 7669/2018 (*M/S. Oasis Enterprise a Proprietorship Firm Vs. The State of Assam & 2 Ors*), WP(C) No. 7675/2018 (*Kishor Singh Vs. The State of Assam & 2 Ors.*), WP(C) No. 7676/2018 (*Mohamed Mustafa Vs. The State of Assam & 2 Ors.*) and WP(C) No. 8067/2018 (*Ranjit Kaushik Vs. The State of Assam & 2 Ors*).

18) The Court on 09.11.2018, issued notice in WP(C) No. 7668/2018 and passed an interim order to the effect that arrangement as on 09.11.2018 would continue and identical orders dated 09.11.2018 were passed in respect of the other six Writ Petitions, noted above.

19) Parties to those proceedings exchanged their affidavits and the Court after considering the entire aspect of the matter and hearing the parties, disposed of said WP(C) Nos. 7668/2018 and other connected above noted six writ petitions, by common judgment and order dated 04.06.2019 with the following directions and observations —

“20. Short point for consideration is whether decision of respondent No.3 to cancel the tender process pursuant to NIT dated 27.07.2018 is legal and valid. Validity of the consequential e-tender notice would be dependent upon the answer to this question.

21. As could be seen from the counter affidavit of respondent No.3, it is the stand of respondent No.3 that though bids of the petitioners were L1, those rates were not above the threshold price mentioned in the tender notice and therefore having regard to Clause 28 of the NIT dated 27.07.2018, tender process was cancelled.

22. Adverting to the impugned order dated 12.10.2018, it is seen that respondent No.3 had cancelled the tender process "due to technical reasons".

23. At this stage, it would be apposite to advert to Clause 28 of the NIT. Clause 28 is extracted hereunder:- "28. (a). If the rate quoted by the tenderer exceeds the rates

given by Agriculture Marketing and GMC, whichever is lower, by a margin of 10% in case of perishable goods and by 5% in case of all other goods, will be outrightly rejected. (b) For items where the Agriculture and GMC rates are not available, the quoted rate should not exceed the market survey rate by a margin of 10% in case of perishable goods and by 5% in case of all other goods, else it will be out rightly rejected. (c) For items where the reference rate is not available, the rates should be reasonable and genuine. If the rates are too high it will not be considered for acceptance."

24. As per Sub-Clause (a), if the rate quoted by the tenderer exceeds the rates given by Agricultural Marketing (Assam State Agricultural Marketing Board) and GMC whichever is lower by a margin of 10% in case of perishable goods and by 5% in case of other goods, such tender would be out rightly rejected. Finally, for items where reference rate is not available, rate should be reasonable and genuine. If the rates are high, it will not be considered for acceptance.

25. Admittedly, rates offered by petitioners are L1. Only thing respondent No.3 (the Divisional Forest Officer; Assam State Zoo) has stated in the counter affidavit is that L1 rates were above the fixed threshold price mentioned in the tender notice dated 27.07.2018 without divulging any details. What were the threshold prices for each of the items and how L1 rates were found to be in excess of the threshold prices have not been disclosed. In the instant case, tenders submitted by petitioners were all opened and evaluation continued till 30.08.2018.

26. There is sanctity attached to a tender process, more so, when it is conducted by the State or by instrumentalities of the State. While certain play in the joints has to be provided to the tendering authority, the State and its instrumentalities cannot act like a private citizen in matters of tenders and contracts. It is bound to act in a fair and judicious manner. Cancellation of a tender process is a serious and drastic measure which should be resorted to only as the last resort. After opening of the tenders and after evaluation of the tender papers that too after finalizing L1 bids, it is not open to respondent No.3 to cancel the tender process by simply citing 'due to technical reasons' which is vague and bald.

27. In the affidavit also, respondent No.3 has not indicated how and in what manner L1 bids are above the threshold price.

28. In the light of the above, impugned cancellation order dated 12.10.2018 and consequential e-tender notices cannot be sustained and are accordingly set aside and quashed.

29. Matter is remanded back to the higher authority of respondent No.2 [the Principal Chief Conservator of Forests (Wildlife)] who shall now finalise the tenders in terms of the NIT dated 27.07.2018. This shall be done within a period of 30 days from the date of

receipt of a certified copy of this order.

30. All the writ petitions are allowed but there shall be no order as to costs."

20) As the respondents in the Environment and Forest Department of the State did not comply with the said common judgment and order dated 04.06.2019 within the time so specified, the petitioner of WP(C) No. 7669/2018 (*M/S. Oasis Enterprise a Proprietorship Firm Vs. The State of Assam & 2 Ors*) filed a contempt case being Cont. Cas(C) No. 387/2019 against the Principal Chief Conservator of Forests (Wildlife), Assam, wherein notice was issued on 22.07.2019.

21) The State Government in the Environment and Forest Department filed seven Review Petitions being Review Pet. Nos. 134/2019 to 140/2019 against the said common judgment and order dated 04.06.2019 passed in WP(C) No. 7668/2018 and other connected six WP(C) Nos. 7664/2018, 7665/2018, 7668/2018, 7669/2018, 7675/2018, 7676/2018 and 8067/2018 stating that inspite of providing the details in the counter affidavit filed by the respondents in the Environment and Forest Department in those writ petitions, the Court in the said order dated 04.06.2019 found fault with the respondents for not divulging details of the threshold price of each of the items and as to how L1 rates were found to be in excess of the threshold price, wherein the Court after considering the matters on 13.09.2019 issued notice to the respondents/i.e., the writ petitioners and that those writ petitions are pending for consideration.

22) During the pendency of said Cont. Cas(C) No. 387/2019 and the Review Petitions, noted above, the Divisional Forest Officer; Assam State Zoo, issued the impugned short E-Tender Notice dated 10.02.2020 involved in these writ petitions.

23) Considering the same, the Court by order dated 19.02.2020 passed the order of status quo in respect of the Tender process under short E-Tender Notice dated 10.02.2020 as on the said date, i.e., 19.02.2020.

24) Mr. Goswami, learned Additional Advocate General appearing for the respondents in the Environment and Forest Department of the State submitted that prior to deciding the writ petitions, the Review Pet. Nos. 134/2019 to 140/2019 filed by the State Government in the Environment and Forest Department against the said common judgment and order dated 04.06.2019 passed in writ petitions WP(C) Nos. 7664/2018, 7665/2018, 7669/2018, 7675/2018, 7676/2018 and 8067/2018 need to be considered first and disposed of before considering the present writ petitions. Mr. Goswami also stated that all the settlement holders in pursuance of the NIT dated 12.06.2017, including the petitioners, taking the advantage of the letter of the DFO,

Assam State Zoo Division dated 31.08.2018 are continuing to supply Food Stuff and Ration items to the Zoo captives of the Assam State Zoo under the respective groups as the tender process could not be finalised. Mr. Goswami also stated that because of the interim orders of the Court, the petitioners are supplying Vegetables & Fruits; Groceries & other Miscellaneous Items and Beef Meat for the Zoo captives of the Assam State Zoo since 2017.

25) From the writ petitions of the petitioners, it is seen that they are aggrieved by the issuance of short E-Tender Notice dated 10.02.2020 issued by the DFO, Assam State Zoo Division for supplying of Food Stuff to the Zoo captives of the Assam State Zoo for a period of one year, while the Review Petitions, noted above, are pending for consideration where there is no stay with regard to the common judgment and order dated 04.06.2019 passed in writ petitions WP(C) Nos. 7664/2018, 7665/2018, 7669/2018, 7675/2018, 7676/2018 and 8067/2018.

26) Considering the above, after hearing the learned counsels for the parties and as agreed by the learned counsels for the parties, the Court decided to consider the Review Petition Nos. 134/2019 to 140/2019, noted above, at first and thereafter, to decide the relevant writ petitions.

27) In the Review petitions —

Review Pet. No. 134/2019 in WP(C) Nos. 7665/2018 (*The State of Assam & 2 Ors Vs. Sanjiv Kumar Roy*), Review Pet. No 135/2019 in WP(C) No. 7669/2018 (*The State of Assam & 2 Ors. Vs. M/S. Oasis Enterprise a Proprietorship Firm*), Review Pet. No 136/2019 in WP(C) No. 7676/2018 (*The State of Assam & 2 Ors. Vs. Mohamed Mustafa*), Review Pet. No 137/2019 in WP(C) No. 7664/2018 (*The State of Assam & 2 Ors. Vs. Sanjiv Kumar Roy*), Review Pet. No 138/2019 in WP(C) No. 8067/2018 (*The State of Assam & 2 Ors. Vs. Ranjit Kaushik*), Review Pet. No 139/2019 in WP(C) No. 7675/2018 (*The State of Assam & 2 Ors. Vs. Kishor Singh*) and Review Pet. No 140/2019 in WP(C) No. 7668/2018 (*The State of Assam & 2 Ors. Vs. Md. Yasin*), all filed by the State of Assam in the Environment and Forest Department against the common judgment and order dated 04.06.2019 passed in writ petition WP(C) No. 7668/2018 and other connected writ petitions WP(C) Nos. 7664/2018, 7665/2018, 7669/2018, 7675/2018, 7676/2018 and 8067/2018.

28) Mr. P. N. Goswami, learned Additional Advocate General, Assam for the State Government in the Environment and Forest Department, i.e., review petitioners, brought to the notice of the Court that in pursuance of the NIT dated 27.07.2018 issued by the Divisional Forest

Officer, Assam State Zoo Division for supply of Rations and Materials to the zoo captives of the Assam State Zoo for the year 2018-2019, the writ petitioners participated in the said Tender process by submitting their respective Tenders/Bids. Though the rates quoted by the petitioners in their respective Bids were found to be the lowest amongst the other bidders/tenderers participated in the said tender process, but the rates quoted by the petitioners were found to be above the threshold price/agricultural marketing price as specified in the said NIT dated 27.07.2018 and for the said reason, the price quoted by the petitioners in their respective Bids being in contravention of Clause 28 of the said NIT dated 27.07.2018 the Divisional Forest Officer, Assam State Zoo Division (respondent No.3 in the writ petitions) by order issued under No.Z/Ration & Materials/ A.S.Zoo/1679-84 dated 12.10.2018, cancelled the said NIT dated 27.07.2018 due to technical reasons with the information that the next date for re-tender will be issued shortly. Accordingly, the said DFO, ASZ Div. on 24.10.2018, 25.10.2018 and 28.10.2018 issued four separate E-Tender Notices inviting online bids for supply of (i) Mutton/Chicken/Egg for a period of 1 (one) year with the estimated value of the contract at Rs.42,00,000/-; (ii) Beef for a period of 1 (one) year with the estimated value of the contract at Rs.1,25,00,000/-; (iii) Fodder Grass for a period of 1 (one) year with the estimated value of the contract at Rs.43,00,000/- and (iv) Tree Leaves for a period of 1 (one) year with the estimated value of the contract at Rs.35,00,000/-.

29) The said order dated 12.10.2018 cancelling the NIT dated 27.07.2018 for technical reasons and the subsequent E-Tender Notices issued on 24.10.2018, 25.10.2018 and 28.10.2018 for supply of Rations and Materials to the Zoo captives of the Assam State Zoo that were issued by the DFO, ASZ Div. were challenged in WP(C) Nos. 7664/2018, 7665/2018, 7668/2018, 7669/2018, 7675/2018, 7676/2018 and 8067/2018 preferred by the writ petitioners.

30) Mr. P. N. Goswami, learned Additional Advocate General for the State also placed that in his common counter affidavit filed in WP(C) Nos. 7668/2018 and other connected writ petitions, noted above, the DFO, ASZ Div. (respondent No.3 in those writ petitions) stated the ground and the reasons for cancelling the NIT dated 27.07.2018 due to technical reasons.

31) Mr. Goswami for the review petitioners stated that the Hon'ble Court by the common judgment and order dated 04.06.2019 passed in WP(C) No. 7668/2018 and other connected six writ petitions, WP(C) Nos. 7664/2018, 7665/2018, 7669/2018, 7675/2018, 7676/2018 and 8067/2018 while setting aside the order dated 12.10.2018 of the Divisional Forest Officer, Assam

State Zoo Division, by which the said DFO cancelled the NIT dated 27.07.2018 due to technical reasons; on the ground that although the writ petitioners took the plea that the rates quoted by them were above the threshold price mentioned in the NIT dated 27.07.2018, but the details thereof were not divulged by the said DFO while cancelling the said NIT dated 27.07.2018 and also on the ground that the threshold price for each of the items as well as how the L1 rates were found to be excess of the threshold prices, were not disclosed.

32) Mr. Goswami stated that in the terms of Clause 28 of the said NIT dated 27.07.2018 the rates given by the Agricultural Marketing were specified therein and that the rates quoted by the writ petitioners were above the said threshold of the Agricultural Marketing which were not denied by the writ petitioners and for that an apparent error has crept in the common judgment and order dated 04.06.2019 passed in WP(C) No. 7668/2028 and other connected six writ petitions, WP(C) Nos. 7664/2018, 7665/2018, 7669/2018, 7675/2018, 7676/2018 and 8067/2018.

33) For the review petitioners Mr. Goswami also submitted that though the Divisional Forest Officer, Assam State Zoo Division cancelled the NIT dated 27.07.2018 mentioning as "due to technical reasons", but in the affidavit filed by the said Divisional Forest Officer in those writ petitions, specifically stated that the rates of the Food Stuff for the captive animals of the Assam State Zoo quoted by the petitioners as bidders pursuant to the NIT dated 27.07.2018 were found to have exceeded the rates given by the Agricultural Marketing and GMC (Gauhati Municipal Corporation) i.e., the threshold price as mentioned in the said NIT dated 27.07.2018. Mr. Goswami submitted that the Hon'ble Court while allowing those seven writ petitions by the common judgment and order dated 04.06.2019 failed to appreciate the specific reasons stated by the said DFO in the said common affidavit.

34) In support of his argument Mr. Goswami, learned Addl. Advocate General placed reliance on the judgments of the Hon'ble Supreme Court in the cases of — *CIT -Vs- Saurashtra Kutch Stock Exchange Ltd.*, reported in (2008) 14 SCC 171, *M.M. Thomas -Vs- State of Kerala*, reported in (2000) 1 SCC 666, *State of Orissa -Vs- Mamata Mohanty*, reported in (2011) 3 SCC 436, *U.P. State Road Transport Corpn. -Vs- Mohd. Ismail*, reported in (1991) 3 SCC 239, *Satyendra Singh -Vs- Saroj Rani*, reported in (2017) 11 SCC 471. On the other hand, Mr. Das learned Sr. Advocate relied on *Delhi Admn. -Vs- Gurdip Singh Uban*, reported in (2000) 7 SCC 296 and *Jain Studios Ltd. -Vs- Shin Satellite Public Co. Ltd.*, reported in (2006) 5 SCC 501. Perused and considered the judgments of the Hon'ble Apex Court placed by the parties.

35) Perused the records of the WP(C) Nos. 7664/2018, 7665/2018, 7668/2018, 7669/2018, 7675/2018, 7676/2018 and 8067/2018. It is seen from the affidavit of the Divisional Forest Officer, Assam State Zoo Division filed on 26.02.2019 in WP(C) No. 7668/2018, which was common for other six writ petitions, noted above, contained the tender notice dated 26.05.2017 issued by the DFO, ASZ Div. for supply of Food Stuff to the Zoo captives of the Assam State Zoo for the year 2017-2018 under Group "A to P" along with Appendix and other relevant documents were annexed as Annexure-I and the agreement for supply of Food Stuff to the animals and birds of the Assam State Zoo during 2017-2018 was annexed as Annexure-II.

36) Similarly, from the said affidavit of the DFO, ASZ Div. filed on 26.02.2019, it is seen that the said NIT dated 27.07.2018 relating to supply of Ration and Materials to the Zoo captives of the Assam State Zoo for the year 2018-19 contained the relevant Tender Notice, all the Appendixes and other necessary documents including Annexure-A were annexed as Annexure-III to the said affidavit.

37) From the said NIT dated 27.07.2018 and the Tender Notice issued by the DFO, ASZ Division annexed to the said affidavit as Annexure-III, noted above, it is seen that the same contained all together 32 Clauses with various Appendixes like, Tender Form, Form of Declaration, Annexure-A (noted above). Clause 28 of the Tender Notice dated 27.07.2018 issued by the DFO, ASZ Division along with the said NIT of 27.07.2018 (Annexure-III to the said affidavit) stipulates as follows:-

28. (a) If the rate quoted by the tenderer exceeds the rates given by Agriculture Marketing and GMC, whichever is lower, by a margin of 10% in case of perishable goods (as given in Annexure-A) and by 5 percent in case of all other goods, will be out rightly rejected.

(b) For items where the Agriculture and GMC rates are not available, the quoted rate should not exceed the Market survey rate by a margin of 10% in case of perishable goods (as given in Annexure-A) and by 5 percent in case of all other goods, else it will be out rightly rejected.

(c) For items where the reference rate is not available, the rates should be reasonable and genuine. If the rates are too high it will not be considered for acceptance.

38) From the said Annexure-III the Tender Notice dated 27.07.2018 issued by the DFO, ASZ

Div. annexed to the said affidavit, it is seen that the Annexure-A of the said Tender Notice dated 27.07.2018 was the Item wise List of Perishable Items; List of Grocery Items; List of Meat, Fish & Egg Items; List of Fodder Items and List of Miscellaneous Items containing — (i) Serial Number, (ii) Names of Items, (iii) Unit, (iv) Maximum Quantity per annum, (v) Minimum Quantity per annum, (vi) Approximate Daily Requirement, (vii) Agriculture (Marketing) Rate (in Rupees), (viii) G.M.C. Rate (in Rupees), (ix) Market Survey Rate of Assam State Zoo Committee (in Rupees), (x) Rate Offered for a year (in Rupees) and (xi) Remarks, where against the each items (a) Agriculture (Marketing) Rate (in Rupees), (b) G.M.C. Rate (in Rupees), (c) Market Survey Rate of Assam State Zoo Committee (in Rupees), and (d) Remarks were specified.

39) Further, on perusal of the said affidavit of the DFO, ASZ Div. filed on 26.02.2019, it is seen that Annexure-IX to the said affidavit was the list of *Comparison Rate of the Lowest Offered Rate with the Threshold Rate as per the NIT dated 27.07.2018 of Assam State Zoo*, that contained (i) Serial Number, (ii) Tender Item Serial Number, (iii) Name of Item, (iv) Threshold Price (in Rupees), (v) Lowest Rate offered (in Rupees), (vi) Lowest Rate offered by and (vii) Remarks that was duly signed by the Committee of vie Evaluating Officers consisting of (i) Assistant Conservator of Forests, Assam State Zoo, (ii) Forest Range Officer, Zoo Headquarter Range, (iii) Assistant Engineer, Assam State Zoo, (iv) Technical Assistant, Assam State Zoo and (v) Junior Assistant, Assam State Zoo, that was countersigned by the DFO, Assam State Zoo Division.

40) From the said Annexure-IX of the affidavit of the DFO, ASZ Division, it is seen that after verification of the Lowest Rate quoted by each of the Tenderers/Bidders, including the petitioners, offered against each of the items in pursuance of the said NIT dated 27.07.2018 comparing with that of the Threshold Price (in rupees) that was Notified in the NIT dated 27.07.2018, the Evaluation Committee found such quoted/offered price by each of the Tenderer/Bidder as "Above Acceptable Rate" or "Above Threshold Price" or "Below Threshold Price", as the case may be and accordingly specified under the Remark column against each items, where the Threshold Price was calculated at the rate of 10% of the base price of Agricultural produce and 5% of the rest of the items.

41) Moreover, from the said Annexure-IX of the affidavit of the DFO, ASZ Division, it is seen that the concerned Evaluation Committee considered Item wise Lowest Rate offered/quoted by the bidders/tenderers including the petitioners and compared the same with the Threshold Rate as per the said NIT dated 27.07.2018. As such, the petitioners of those WP(C) Nos. 7664/2018,

7665/2018, 7668/2018, 7669/2018, 7675/2018, 7676/2018 and 8067/2018 were fully aware as to how the concerned Evaluation Committee found their Item Wise Quoted Rate, though L1 rate, but were "Above Acceptable Rate" or "Above Threshold Price" or "Below Threshold Price" after comparing with the Threshold Rate in terms of the said NIT dated 27.07.2018.

42) From the records of those writ petitions, it is seen that the writ petitioners not only filed their respective replies against the said affidavit of the DFO, ASZ Div. that was filed on 26.02.2019 but also replied against the finding of the comparison of the price offered by them against the items in their respective tenders with that of the Threshold Price of those items as was determined by the concerned Evaluation Committee.

43) It is seen that though in the Annexure-A to the Tender Notice dated 27.07.2018 where Threshold Price (in rupees), the G.M.C. Price of the items (in rupees), price of the Marketing Survey Rate of the Assam State Zoo Committee (in rupees) and Remarks were specified and further in the Annexure-IX to the said affidavit of the DFO, ASZ Div. that was the comparison of the lowest rate offered against each items by the bidders/ tenderers including the petitioners in pursuance of the said NIT with that of the Threshold Rate as per the NIT dated 27.07.2018 of the Assam State Zoo where Threshold Rate was calculated at the rate of 10% of the base price of Agricultural produce and 5% of the rest of the items were also specified but it is found that the Court in the said common order dated 04.06.2019 passed in WP(C) No. 7668/2018 and other connected six writ petitions came to the finding that — "*in the affidavit filed by the Divisional Forest Officer, Assam State Zoo Division though stated that L1 rates were above the fixed Threshold Price mentioned in the Tender Notice dated 27.07.2018, but said finding was without divulging any details*". Further, in the said common order dated 04.06.2019 passed in WP(C) No. 7668/2018 the Court also observed that — "*the DFO, ASZ Division, in the said affidavit did not indicate how in what manner L1 bids were above the threshold price*".

44) It is well settled that *The power of review under Order 47 Rule 1 of the Code of Civil Procedure, 1908 is very limited Review proceeding is strictly confined to the scope and ambit of Order 47, Rule 1 of the Code of Civil Procedure, 1908 and that the power of review under Order 47 Rule 1 of the CPC is very limited. The power of review is required to be exercised only if there is a mistake or on the ground of error apparent on the face of record and not on any other ground. An error apparent on the face of record must be such an error which must strike one on mere looking at the record and would not require any long-drawn process of rejoining on points*

where there may conceivably be two options.

45) In the case of *Satyanarayan Laxminarayan Hegde -Vs- Mallikarjun Bhavanappa Tirumale*, reported in *AIR 1960 SC 137* the Hon'ble Supreme Court observed as to *what constitutes an error apparent on the face of the record*, which is as follows -

“An error which has to be established by a long-drawn process of reasoning on points where there may conceivably be two opinions can hardly be said to be an error apparent on the face of the record. Where an alleged error is far from self-evident and if it can be established, it has to be established, by lengthy and complicated arguments, such an error cannot be cured by a writ of certiorari according to the rule governing the powers of the superior court to issue such a writ.”

46) With regard to the inherent powers of the High Court to review its order under Article 226 of the Constitution, the Constitution Bench of the Hon'ble Apex Court in the case of *Shivdeo Singh -Vs- State of Punjab*, reported in *AIR 1963 SC 1909* (pg.1911, para-8) have held that — *Nothing in Article 226 of the Constitution precludes a High Court from exercising the power of review which inheres in every court of plenary jurisdiction to prevent miscarriage of justice or to correct grave and palpable errors committed by it.*

47) The Hon'ble Supreme Court, while dealing with the concept of review, in the case of *Thungabhadra Industries Ltd. -Vs- State of A.P.*, reported in *AIR 1964 SC 1372* opined that —

“11. ... A review is by no means an appeal in disguise whereby an erroneous decision is reheard and corrected, but lies only for patent error. We do not consider that this furnishes a suitable occasion for dealing with this difference exhaustively or in any great detail, but it would suffice for us to say that where without any elaborate argument one could point to the error and say here is a substantial point of law which stares one in the face, and there could reasonably be no two opinions entertained about it, a clear case of error apparent on the face of the record would be made out.”

48) In the case of *Aribam Tuleshwar Sharma -Vs- Aribam Pishak Sharma* reported in (1979) 4 SCC 389 (pg. 390, para-3), Hon'ble Supreme Court following the decision of *Shivdeo Singh* (supra) observed as follows:

“3. ... It is true as observed by this Court in Shivdeo Singh (supra) there is nothing in Article 226 of the Constitution to preclude a High Court from exercising the power of review which inheres in every court of plenary jurisdiction to prevent miscarriage of justice or to correct grave and palpable errors committed by it. But, there are

definitive limits to the exercise of the power of review. The power of review may be exercised on the discovery of new and important matter or evidence which, after the exercise of due diligence was not within the knowledge of the person seeking the review or could not be produced by him at the time when the order was made; it may be exercised where some mistake or error apparent on the face of the record is found; it may also be exercised on any analogous ground. But, it may not be exercised on the ground that the decision was erroneous on merits. That would be the province of a court of appeal. A power of review is not to be confused with appellate powers which may enable an appellate court to correct all manner of errors committed by the subordinate court."

49) From the above and on careful perusal of the impugned common judgment dated 04.06.2019 passed in WP(C) No. 7668/2018 and other connected six writ petitions, noted above, it is seen that the annexures made available in the affidavit of the respondent Environment and Forest Department filed by the DFO, ASZ Div. including the Annexure-A, a part of the Tender Document dated 27.07.2018, containing the list of perishable items, list of grocery items, list of meat, fish and egg items, list of fodder items, list of miscellaneous items, with Agriculture Marketing Rate in Rupees, GMC Rate in Rupees, Markets Survey Rate of Assam State Zoo Committee in Rupees including maximum quantity per annum, minimum quantity per annum, approximate daily requirement, which the petitioners were fully aware of, was left out of consideration.

50) In the Annexure-9 to the said common affidavit of the DFO, ASZ Div. filed on 26.02.2019 in WP(C) No. 7668/2018, it is seen that the evaluating committee compared the rates of the lowest rate offered by the bidders including the petitioners with the Threshold Rate as per the NIT dated 27.07.2018 issued by the DFO, ASZ Div. on 27.07.2018, as specified in the said Annexure-A of the Tender Document dated 27.07.2018 and as such, came to the finding that the rates quoted by the bidders/petitioners are either above Threshold Price or below the same, as the case may be. On that count, the authorities concerned i.e., the DFO, ASZ Div. by Notice dated 12.10.2018, cancelled the tender for supply of Ration and Materials for the Zoo captives for the year 2018-19 on technical reasons indicating that the next date of retender would be issued shortly. Accordingly, the said DFO, ASZ Div. on 25.10.2018 re-issued four tenders for supply of Ration and Materials for the Zoo captives for one year. This aspect was escaped from consideration in the common judgment and order dated 04.06.2019 passed in WP(C) No. 7668/2018 and other connected cases, noted above.

51) It is seen that the relevant documents though available pertaining to the decision making process in determining the Threshold Price either above of it or below did not figure in said common judgment dated 04.06.2019 though the petitioners in their reply affidavits answered to such finding of the Committee concerned and those documents were missed out.

52) After consideration of the entire matter, at a mere glance, this Court found that the Court while issuing the common order dated 04.06.2019 in WP(C) No. 7668/2018 and other connected cases, those relevant documents, particularly Annexure-A of the Tender Documents of the NIT dated 27.07.2018 together with Annexure-IX of the common Affidavit filed by the DFO, ASZ Div. in WP(C) No. 7668/2018 were left out and the said error is self evident.

53) When such self evident error comes to the notice of the Court and if it is not rectified in exercise of the power of review jurisdiction or jurisdiction of recall, which is a facet of plenary jurisdiction under Article 226 of the Constitution of India, it would be grave miscarriage of justice. The Court is of the view that said non-consideration of the relevant documents while considering the matter and issuing the impugned order dated 04.06.2019 is a clear case of an error apparent on the face of the records.

54) For the reasons above, the order dated 04.06.2019 passed in WP(C) No. 7668/2018 and other connected six writ petitions WP(C) Nos. 7664/2018, 7665/2018, 7669/2018, 7675/2018, 7676/2018 and 8067/2018 is reviewed and accordingly, recalled. Hence, the Review Petition Nos. 134/2019 to 140/2019, noted above, are allowed.

55) **In the seven Writ Petitions, WP(C) Nos. 7664/2018, 7665/2018, 7668/2018, 7669/2018, 7675/2018, 7676/2018 and 8067/2018 —**

In view of the order passed today in the connected seven Review Petition Nos. 134/2019 to 140/2019, noted above, the common order passed earlier on 04.06.2019 in these writ petitions are hereby recalled.

56) The NIT dated 27.07.2018 issued by the DFO, ASZ Division pertaining to supply of ration and materials for the Zoo captives of the Assam State Zoo at Guwahati was for the period from 2018 to 2019, that was only for a period of one year, which was terminated by the notice dated 12.10.2018 issued by the DFO, ASZ Div. and the period of tender as specified in said NIT dated 27.07.2018 had expired long back. Further, the subsequent Re-tender notice being NIT Nos. Z/RATION/ASZ/2018-19/1691, Z/RATION/ASZ/2018-19/1692, Z/RATION/ASZ/2018-19/1693,

Z/RATION/ASZ/2018-19/1694, Z/RATION/ASZ/ 2018-19/1695, Z/RATION/ASZ/2018-19/1696, Z/RATION/ASZ/2018-19/1697 and Z/RATION/ASZ/2018-19/1698 all dated 24.10.2018 issued by the DFO, ASZ Div., published in the news papers on 25.10.2018, for supply of Vegetables, Fruits, Grocery items, Fish, Mutton/Chicken/Egg, Beef, Fodder Grass and Tree Leaves, respectively, for the Zoo captives of the Assam State Zoo that was for a period of one year, have also expired.

57) In view of the above, the prayer of the petitioners made in those WP(C) Nos. 7664/2018, 7665/2018, 7668/2018, 7669/2018, 7675/2018, 7676/2018 and 8067/2018 have become infructuous.

58) With regard to the three Writ Petitions WP(C) Nos. 1234/2020, 1235/2020 and 1236/2020 —

The impugned short E-Tender Notices under Nos. (i) Z/RATION/ASZ/2020/335, (ii) Z/RATION/ASZ/2020/336 and (iii) Z/RATION/ASZ/2020/337 for supply of (a) Vegetables and Fruits, (b) Groceries and other Miscellaneous Items and (c) Beef Meat, respectively, for the Zoo captives of the Assam State Zoo that was for a period of one year for the Financial Year 2020-2021, i.e., From 1st April, 2020 to 31st March, 2021 involved in these WP(C) Nos. 1234/2020, 1235/2020 and 1236/2020 have already expired. As such, these three writ petitions have also become infructuous.

59) For the reasons above, WP(C) Nos. 7664/2018, 7665/2018, 7668/2018, 7669/2018, 7675/2018, 7676/2018 and 8067/2018 as well as WP(C) Nos. 1234/2020, 1235/2020 and 1236/2020 as have become infructuous, since the respective tender period have expired long back, those were dismissed.

60) The respondent authorities in the Environment and Forest Department shall do the needful for supply of all perishable items of Vegetables and Fruits; Grocery items; Fodder items; Miscellaneous items and Fish/Mutton/Chicken/Egg/Beef items etc. for the Zoo captives of the Assam State Zoo by way of new tender process, forthwith.

61) In view of the above, the interim order passed earlier in or any of these cases, presently in force, shall stand vacated.

JUDGE

Comparing Assistant