

GAHC010169682022



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

Case No. : WP(C)/5585/2022

MAINUL ISLAM
PROPRIETOR OF RAJIB ENTERPRISE, RESIDENT OF HOUSE NO. 274, NH 37,
LACHIT NAGAR, JALUKBARI, GUWAHATI - 781014, DIST. KAMRUP (M),
ASSAM

VERSUS

NORTH EAST FRONTIER RAILWAY AND 6 ORS
MALIGAON, GUWAHATI, REP. BY ITS GENERAL MANAGER, N.F. RAILWAY
HEAD QUARTER, MALIGAON, GUWAHATI- 781011

2:THE GENERAL MANAGER

N.F. RAILWAY HEAD QUARTER
MALIGAON
GUWAHATI - 781011

3:THE CONTROLLER OF STORE N.F. RAILWAY
HEAD QUARTER GUWAHATI- 781011
KAMRUP (M)
ASSAM

4:THE PRINCIPAL CHIEF MATERIAL MANAGER

N.F. RAILWAY HEAD QUARTER
GUWAHATI-781011
KAMRUP (M)
ASSAM

5:THE DEPUTY CHIEF MATERIAL MANAGER

N.F. RAILWAY

PANDU
GUWAHATI - 781012

6:THE DIVISIONAL RAILWAY MANAGER

LUMDING DIVISION
N.F. RAILWAY LUMDING ASSAM
PIN- 782447.

7:THE SENIOR SECTION ENGINEER

PWAY
CON. HJI
N.F. RAILWAY
HOJAI
ASSAM
PIN- 78243

Advocate for the Petitioner : MR J BORAH

Advocate for the Respondent : SC, NF RLY

BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY

ORDER

Date : 24-03-2023

Heard Mr. R. Sarmah, learned counsel for the petitioner and Mr. K. Gogoi, learned Central Government Counsel for all the respondents.

2. The subject-matter of this writ petition is an E-auction process held under the aegis of the respondent N.F. Railway authorities for scrap and other waste materials, pursuant to an E-auction notice. The E-auction was stated to have been held on 18.02.2022 under the respondent no. 5. The petitioner participated in the E-auction and emerged successful in respect of 4 [four] nos. of Lots. On being emerged as the successful bidder, the petitioner was issued the following Bid Sheets for lifting of auctioned items from locations under

Lumding division :-

1. Lot No. AB-PWAY-CON-JGJN-09-21-14 under Bid Sheet No. 39607257 dated 18.02.2022,
2. Lot No. AB-PWAY-CON-JGJN-09-21-10 under Bid Sheet No. 39606105 dated 18.02.2022,
3. Lot No. AB-PWAY-CON-JGJN-08-21-08 under Bid Sheet No. 39606107 dated 18.02.2022
4. Lot No. AB-PWAY-CON-JGJN-08-21-03 under Bid Sheet No. 39606108 dated 18.02.2022

3. After deposit of the requisite Balance Sale Values [BSVs] and completion of the requisite formalities for the Lots, the petitioner was issued 4 [four] nos. of Sale Release Orders [SROs] on 02.03.2022. It is not in dispute that as per the SROs, the Free Delivery Period [FDP] was up to 08.04.2022.

4. It is projected on behalf of the petitioner that due to reasons beyond his control, he could not lift the auctioned scrap materials in respect of the aforementioned 4 [four] nos. of Lots prior to 08.04.2022. Envisaging the same, the petitioner submitted a representation before the respondent no. 5 on 07.04.2022 with a prayer to extend the delivery period for a further period of 60 [sixty] days with ground rent. The representation dated 07.04.2022 was followed by another representation of the petitioner submitted before the respondent no. 7 on 11.04.2022, wherein the petitioner had stated the reasons as to why he could not lift the auctioned scrap materials in time in respect of the 4 [four] nos. of Lots. By a communication bearing no. W/308/Con/D.P., the representation of the petitioner seeking extension of the delivery period, stood forwarded to the respondent no. 5 by the concerned authority on 28.04.2022

through e-office. When the matter rested in the same position despite elapse of sufficient time period and without any discernible action from the respondent N.F. Railway authorities, on the representations filed by the petitioner, the petitioner has approached this Court by this writ petition seeking inter alia a direction to the respondent authorities to extend the period of delivery/lifting of the scrap materials for the Lots in respect of which the petitioner has emerged as the successful bidder in the E-auction process.

5. The learned counsel for the parties have, in unison, submitted that as the representations of the petitioner seeking extension of the delivery period are pending before the competent authority without consideration till date, the writ petition can be disposed of with a direction to the respondent authorities, more particularly, the respondent no. 4 in consultation with the respondent no. 5, to take the representations of the petitioner, dated 07.04.2022 and dated 11.04.2022, on board and after due consideration, to dispose of the same by passing a speaking order.

6. As the learned counsel for the parties have arrived at a broad consensus in the afore-stated manner, this Court is of the considered view that instead of keeping this writ petition pending, the same can be disposed of with a direction to the respondent authorities, more particularly, the respondent no. 4 to take the afore-mentioned two representations of the petitioner on board for consideration and after due consideration of the grounds urged in the representations in consultation with the respondent no. 5, to dispose of the same by passing a speaking order within a period of 4 [four] weeks from the date of receipt of a certified copy of this order along with a copy of the writ petition with annexures. It is accordingly directed. It is, however, made clear

that this Court has not made any observations as regards the merits of the claim of the petitioner and the respondent authorities shall consider the representations on its own merits and in accordance with law.

7. This order disposes of the writ petition.

JUDGE

Comparing Assistant