

GAHC010171652022



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

Case No. : WP(C)/5531/2022

M/S MAA MANASHA PRINTERS AND ANR
(GOVT. APPROVED PRINTING PRESS)
R.G BARUAH ROAD, ZOO ROAD TINIALI, GUWAHATI-781024,
REP. BY ITS PROPRIETOR -
BANAJIT TALUKDAR, AGE 40 YRS,
S/O- BIKRAMJIT TALUKDAR

2: M/S NAVANITA PRINTERS
3RD BYE LANE
OPPOSITE NSIC
BAMUNIMAIDAM
GUWAHATI-21
REP. BY ITS PROPRIETOR DIBYAJYOTI KALITA
AGE- 56 YRS

S/O- LATE DHIRESWAR KALIT

VERSUS

THE STATE OF ASSAM AND ANR
REPRESENTED BY THE ADDL. CHIEF SECRETARY TO THE GOVERNMENT
OF ASSAM, AND AGRICULTURE PRODUCTION COMMISSIONER ASSAM,
AGRICULTURE DEPARTMENT , DISPUR, GUWAHATI 6

2:THE DIRECTOR OF AGRICULTURE
ASSAM
KHANAPARA
GUWAHATI 2

Advocate for the Petitioner : MR. P P DUTTA

Advocate for the Respondent : SC, AGRI. DEPARTMENT

**BEFORE
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI**

ORDER

27.02.2023

Heard Shri TJ Mahanta, learned Senior Counsel assisted by Shri T. Gogoi, learned counsel for the petitioners. Also heard Shri B. Choudhury, learned Standing Counsel for the Agriculture Department.

2. The grievance of the petitioner is regarding acceptance of its bid pursuant to an E-Procurement Tender Notice dated 02.07.2022. The scope of works were classified into two groups, namely, Group A & B and the bidders were directed to pay earnest money deposit of Rs.1,90,000/- for participating in both the groups. It has further been clarified that if the bidding was only for one group, the bid security would be Rs.95,000/-. The petitioner being eligible under the said notice dated 02.07.2022 had gone to submit tender on 25.07.2022 in the portal in respect of Group-A. However, the earnest money deposit / bid security in respect of Group-A was shown to be Rs.1,90,000/- instead of Rs.95,000/-. In this regard, the petitioner had submitted a representation which however has not been considered.

3. Shri Mahanta, learned Senior Counsel for the petitioners submits that the tender conditions specifically mentioned that if the bid is for one Group, the bid security amount is Rs.95,000/- and in this connection the Clause-8 of the Section II of the tender document has been referred to. The learned Senior Counsel submits that there is absolutely no ambiguity of the fact that for each work the bid security money was Rs.95,000/- as only for bidders participating in both the works i.e., Group A & B, the bid security would be Rs.1,90,000/-.

4. Shri B. Choudhury, learned Standing Counsel, Agriculture Department however submits that the so called grievance of the petitioner is without any basis as similarly situated persons could submit the bid by depositing Rs.95,000/- only. In this

connection, he has drawn the attention of this Court to Annexure-A by giving the example of another bidder who could deposit EMD of Rs.95,000/- for the works in Group-A. Learned Standing Counsel submits that the grievance of the petitioner has been raised without any reasonable ground and therefore the writ petition itself is liable to be dismissed.

5. After hearing the parties, this Court is of the opinion that the dispute between the parties is a trivial one, namely, the acceptance of the bid security as per stipulation for one group which is Rs.95,000/-

6. While the learned Standing Counsel has made a statement that there is no anomalies in the system which would require a prospective tenderer to deposit the bid security to the tune of Rs.1,90,000/- for one work, there should not be any difficulty for the petitioner in submitting his bid for Group A work by depositing a bid security of Rs.95,000/-.

7. However, Shri Choudhury, learned Standing Counsel, Agriculture Department has submitted that last date of submission of bids is over and system has been closed.

8. After hearing the parties, this Court is of the opinion that the relief claimed is only limited to a fair consideration of the bid and acceptance of the bid at the technical level which till now has not been done only on the issue of bid security. Since it is the case of the petitioner that the bid has been submitted only for Group A work, there is no ambiguity that the bid security would be Rs.95,000/-.

9. In that view of the matter, the writ petition is disposed of by directing the petitioner to approach the respondent authorities within a period of one week from today and by tendering the amount of Rs.95,000/- which is the earnest money deposit / bid security for Group A work in the prescribed format which the respondents are directed to accept. For doing that, the respondents may make necessary change in the module so that bid of the petitioner is accepted without any hurdle. After such acceptance, the bid can be taken up for evaluation on its own merits along with other

bidders.

10. The writ petition accordingly stands disposed of.

JUDGE

Comparing Assistant