

GAHC010212562022



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

Case No. : WP(C)/6749/2022

BRAJEN BARMAN
S/O PRASANNA BARMAN, R/O HOUSE NO. 10, HENGRABARI, NEAR
NABAJYOTI CLUB, GUWAHATI, P.S.-DISPUR, DIST- KAMRUP(M), ASSAM

VERSUS

THE STATE OF ASSAM AND 3 ORS.
REPRESENTED BY THE SECRETARY TO THE GOVT. OF ASSAM, GUWAHATI
DEVELOPMENT DEPARTMENT, DISPUR, GHY-06

2:THE CHIEF EXECUTIVE OFFICER
GUWAHATI METROPOLITAN DEVELOPMENT AUTHORITY
BHANGAGARH
GUWAHATI
ASSAM

3:BHASKAR JYOTI DAS
JYOTI NAGAR
HOUSE NO. 07
P.O.-BAMUNIMAIDAM
GUWAHATI
KAMRUP (M)
ASSAM

4:M/S ONE STAR ENGINEERING
REPRESENTED BY ITS PROPRIETOR NAMELY ULUP BARMAN
INDIRA NAGAR
NEAR FOREST OFFICE
HOUSE NO. 12
BASISTHA
GUWAHATI-2

Advocate for the Petitioner : MR. N BARMAN

Advocate for the Respondent : SC, GDD

**BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY**

ORDER

Date : 13-10-2023

Heard Mr. S.K. Goswami, learned counsel for the petitioner and Mr. P. Nayak, learned Standing Counsel, GDD and GMDA for the respondent nos. 1 & 2.

2. The respondent GMDA had published a Notice for e-Bid ['Tender Notice', for short] under two-cover system [Technical Bid and Financial Bid] from interested bidders "Re-tendering of Temporary Leasing Out of Car Parking at Old Jail Land, Fancy Bazar, Guwahati" ['the Parking Place', for short]. As per Clause 37 of the Detailed Tender Document, the minimum bid value was fixed at ₹ 1,69,20,000.00 per annum. When a Letter of Acceptance [LoA] was issued by the respondent GMDA authorities on 28.09.2022 in favour of the respondent no. 3 terming him as the highest valid bidder [H1], the petitioner had instituted the present writ petition challenging issuance of such Letter of Acceptance [LoA] on the premise that the bid of the respondent no. 3 was not compliant to the terms and conditions set forth in the Tender Notice.

3. In the course of the proceedings, the respondent GMDA authorities had filed a counter affidavit on 17.01.2023 annexing the results found after opening of the Financial Bids, as Annexure-B to the said counter affidavit. As per the Minutes of the Financial Bid Opening Meeting, held on 20.09.2021, out of the 5 bidders whose technical bids were found responsive, only 2 bidders had quoted above the minimum bid value set forth in Clause 37 of the Tender Notice. It is averred in Paragraph 13 of the counter affidavit that the 1st highest bidder [H1] after issuance of the Letter of Acceptance [LoA], failed to deposit the performance security within the stipulated time period. On the other hand, the 2nd highest bidder [H2] had withdrawn from the fray. As a result, no other financially qualified bidder was left in the fray. It is averred that the petitioner had quoted a bid value of ₹ 93,01,779.00, which was below the minimum bid value set forth in Clause 37 of the Tender Notice. It is

further averred that as a result, the GMDA authorities had to take over the Parking Place on and from 20.10.2022 to operate the same departmentally.

4. As the petitioner himself had quoted a bid value lower than the minimum bid value set forth in Clause 37 of the Tender Notice, which made him a non-responsive in respect of the financial bid for the Parking Place, this Court does not find any good and sufficient ground to continue with the writ petition as the writ petition is clearly devoid of merit. The writ petition is accordingly dismissed.

5. At this stage, Mr. Goswami, learned counsel for the petitioner has submitted that the petitioner had preferred a Representation before the respondent no. 2 on 07.09.2022 and the same has not yet been disposed of. Considering the fact that the Representation submitted by the petitioner on 07.09.2022 has not yet been disposed of, it is observed to the effect that the GMCA authorities shall take the said Representation on board, to dispose of the same by passing a speaking order within a period of 3 [three] weeks from the date of submission of a certified copy of this Order by the petitioner at the office of the respondent no. 2.

JUDGE

Comparing Assistant