

GAHC010241502023



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

Case No. : WP(C)/6227/2023

NIRMAN ASSOCIATES AND ANR.
REP. BY PROPRIETOR
KAMALA KAKOTI.
REGD OFFICES AT WARD NO- 41,
VILLAGE DAKHINGAON,
DAKHINGAON SONAIGHULI ROAD, GUWAHATI-40,
DIST- KAMRUP (M), ASSAM

2: MRS. KAMALA KAKOTI.
R/O WARD NO- 41

VILLAGE DAKHINGAON

DAKHINGAON SONAIGHULI ROAD
GUWAHATI-40

DIST- KAMRUP (M)
ASSA

VERSUS

THE STATE OF ASSAM AND 5 ORS.
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVERNMENT OF
ASSAM, FISHERY DEPARTMENT
DISPUR, GUWAHATI-06.

2:THE COMMISSIONER AND SECRETARY
TO THE GOVERNMENT OF ASSAM
FINANCE DEPARTMENT
DISPUR
GUWAHATI-06.

3:THE SECRETARY
TO THE GOVT. OF ASSAM

D BLOCK
JANATA BHAWAN
FISHERY DEPTT. DISPUR
GUWAHATI
PIN 781006

4:THE DISTRICT FISHERY DEVELOPMENT OFFICER
DARRANG
MAMNGALDAI
ASSAM

5:THE SENIOR FINANCIAL ADVISOR (SR. FA)
FINANCIAL ADVISOR
DIRECTORATE (FISHERIES)

6:THE DIRECTOR/ NODAL OFFICER
FISHERIES
ASSA

For the Petitioner(s) : Mr. S. Sarma, Advocate

For the Respondent(s) : Mr. P. Sarma, Standing Counsel

BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH

ORDER

Date : 24.11.2023

1. The instant writ petition has been filed by the Petitioners challenging the Notice Inviting Tender bearing No.AFD-411/PMMSY/Pt.II/2022-23/1070-1074 dated 18.08.2023 as well as the Tender No.AFD-411/PMMSY/Pt.II/2022-23/1075-1079 dated 18.08.2023 on the ground that the said tenders have been issued to violating the provisions of the Assam Public Procurement Rules, 2020 framed under the Assam Public Procurement Act, 2017 which mandates that no procurement entity shall divide or bulk its procurement after bids have been invited for the purpose, under any circumstances and violation thereof shall be

deemed as willful dereliction of duty constituting grave misconduct under the Conduct Rules.

2. This Court vide an order dated 19.10.2023 issued notice and as an interim measure directed that the Respondent Authorities may proceed to process the bids received in response to the two Short Notice Inviting Quotations dated 18.08.2023 but shall not finalize the processes without the leave of the Court.

3. Today, when the matter has been listed, Mr. P. Sarma, the learned Standing counsel appearing on behalf of the Fishery Department has placed before this Court an order dated 22.11.2023 issued by the Commissioner and Secretary to the Government of Assam, Fishery Department wherein it has been mentioned that the irregularity as regards splitting the total tender value exceeding R.20,00,000/- instead of going for e-tendering as per the O.M vide eCF No.31119 dated 09.06.2023 issued by the Finance Department in connection with procurement of materials under PMMSY have been rectified and all District Fishery Development Officers have been directed to withdraw/cancel any such SNIQ, if already issued in case of the total tender value is Rs.20,00,000/- and above and resort to e-tendering in compliance of the order/direction of the Finance Department vide OM dated 09.06.2023.

4. The learned Standing counsel appearing on behalf of the Fishery Department therefore submitted that in view of the said order dated 22.11.2023 issued by the Commissioner and Secretary to the Government of Assam, Fishery Department the impugned tenders have been withdrawn and the Respondent Authorities would be taking effecting steps for initiating process for e-tendering as per the OM vide eCF No.31119 dated 09.06.2023.

5. Taking into account the above submissions, as the tenders which have

been impugned in the instant case have been withdrawn by the concerned Respondent Authorities, nothing further remains to be decided in the instant case for which the instant writ petition has become infructuous and accordingly stands closed.

6. Be that as it may, this Court however directs the Respondent Authorities to comply with its order dated 22.11.2023 issued by the Commissioner and Secretary to the Government of Assam, Fishery Department as well as also the OM vide eCF No.31119 dated 09.06.2023 issued by the Finance Department.

7. The order dated 22.11.2023 is kept on record and marked with the letter "X".

JUDGE

Comparing Assistant