

GAHC010268262023



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

Case No. : WP(C)/6911/2023

M/S PUBERUN
A PROPRIETORIAL FIRM REPRESENTED BY THE SOLE PROPRIETOR SHRI
PURNA MAHANTA HAVING ITS PRINCIPAL PLACE OF BUSINESS AT DISHA
ENCLAVE, R.G. BARUAH ROAD, DIST. KAMRUP(M), ASSAM, PIN- 781005.

VERSUS

THE STATE OF ASSAM AND 3 ORS
REPRESENTED BY THE SECRETARY TO THE GOVT. OF ASSAM,
AGRICULTURE DEPARTMENT, DISPUR, GUWAHATI-6.

2:THE ADDITIONAL CHIEF SECRETARY TO THE GOVT. OF ASSAM
AND AGRICULTURE PRODUCTION COMMISSIONER
ASSAM AGRICULTURE DEPARTMENT
DISPUR
GUWAHATI-6.

3:THE DIRECTOR OF AGRICULTURE
ASSAM AND CHAIRMAN DEPARTMENTAL BID COMMITTEE (DBC)
KHANAPARA
GUWAHATI-22.

4:THE DIRECTOR HORTICULTURE
AND FOOD PROCESSING (FP)
ASSAM
KHANAPARA
GHY-22

Advocate for the Petitioner : MR. S S GOSWAMI

Advocate for the Respondent : SC. AGRICULTURE

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

ORDER

04.12.2023

Heard Shri SS Goswami, learned counsel for the petitioner. Also heard Shri B Choudhury, learned Standing Counsel, Agriculture Department, Assam.

2. When this case was taken up on the last occasion i.e. 01.12.2023, the learned Standing Counsel was directed to have the instructions which have been procured today i.e. 04.12.2023.

3. The matter pertains to a Notice Inviting Tender (NIT) issued by the Agriculture Department on 29.07.2023. The said NIT is with regard to supply of 25 numbers of Agro Plastic items for the years 2023-24 and 2024-25.

4. It is the case of the petitioner that it had participated in the said process by submitting its bid. The grievance of the petitioner is, however, based on the alleged discrepancy on the part of the respondent authorities in dividing the items into two groups and the experience clause for the two groups were in variation.

5. Shri Goswami, learned counsel for the petitioner has also referred to the Assam Public Procurement Rules 2020 and the Standard Bidding Document (Goods) of the Finance Department, Government of Assam to support his case.

6. Shri Choudhury, learned Standing Counsel of the Department, however, submits that the technical evaluation of the bids has already been conducted in

which the bid of the petitioner was not found to be technically responsive and there is no specific challenge to the said action. Nonetheless, he submits that the petitioner can still raise the grievance before the Director of Horticulture and Food Processing as there is a mechanism for redressal of such grievance. It is further submitted that all the points raised in this petition can be the subject matter of the grievance which may be expressed in a petition that may be submitted before the aforesaid Director.

7. Shri Goswami, learned counsel for the petitioner, however, expresses apprehension that if, in the meantime, the settlement process is finalized, the petitioner would suffer immense prejudice and therefore, prays for certain observations to protect the rights of the petitioner till such consideration.

8. Having regard to the rival submission made, this Court is of the opinion that instead of entering into the merits of the dispute by this Court, at this stage, it would be prudent to permit the petitioner to submit a detail representation expressing all the grievances before the Director of Horticulture and Food Processing which may be done within 07.12.2023.

9. To balance the equities, it is, however, directed that till the time stipulated for submission of the representation, no final decision be taken towards settlement pursuant to the NIT in question. The Director of Horticulture and Food Proceeding on receipt of the representation shall consider the same and pass necessary speaking order(s) which may be communicated to the petitioner. Since a tender process is involved, the Director aforesaid may dispose of the representation as early as possible and till such disposal is made, the interim observation would continue to operate.

10. It is needless to say that the petitioner would be at liberty to approach this Court in case any further grievance arises.

11. The writ petition accordingly stands disposed of.

JUDGE

Comparing Assistant