

GAHC010274672023



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

Case No. : WP(C)/7044/2023

NILIMA BORO ALIAS NILIMA BORO KALITA ALIAS NILIMA KALITA
WIFE OF SRI BINOY KALITA,
R/O- MIRZA,
P.O.- MIRZA, PIN- 781125,
P.S.- PALASHBARI,
DISTRICT- KAMRUP, ASSAM.

VERSUS

THE STATE OF ASSAM AND 6 ORS
REPRESENTED THROUGH THE PRINCIPAL SECRETARY TO THE
GOVERNMENT OF ASSAM,
FOREST AND ENVIRONMENT DEPARTMENT,
SACHIVALAYA, DISPUR, GUWAHATI- 781006.

2:THE PRINCIPAL CHIEF CONSERVATOR OF FORESTS AND HEAD OF
FOREST FORCE
ASSAM
PANJABARI
GUWAHATI- 781037.

3:THE PRINCIPAL CHIEF CONSERVATOR OF FOREST (T)
LOWER ASSAM ZONE
GUWAHATI- 781001.

4:THE CHIEF CONSERVATOR OF FORESTS (T)
CENTRAL ASSAM CIRCLE
GUWAHATI- 781001.

5:THE TENDER COMMITTEE CONSTITUTED FOR THE PURPOSE OF
SCRUTINY OF BIDS OF THE TENDERERS
REPRESENTED BY ITS CHAIRMAN

I.E.
THE CHIEF CONSERVATOR OF FORESTS (T)
CENTRAL ASSAM CIRCLE
GUWAHATI- 781001.

6:THE DIVISIONAL FOREST OFFICER
KAMRUP WEST DIVISION
BAMUNIGAON.

7:THE RANGE FOREST OFFICER
LOHARGHAT RANGE
LOHARGHAT

Advocate for the Petitioner : MR. B D GOSWAMI
Advocate for the Respondent : SC, FOREST

BEFORE
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI

ORDER

08-12-2023

Heard Shri B. D. Goswami, learned counsel for the petitioner.

2. The matter pertains to settlement of a Sand Mahal, namely KWD/10/Batha No. 2 in the district of Kamrup.

3. It is the case of the petitioner that petitioner was the settlement holder of a Sand Mahal, namely, KWD/10/Batha No. 2 for the period 2016-2023. The petitioner has put on record a completion certificate in this regard. After completion of the said tenure, a fresh process has been initiated vide publication of an E-Auction Notice on 26.10.2023 in which, the petitioner along with few others had participated.

4. It is the contention of the petitioner that her bid was duly submitted. Since there was delay in notifying the results of the technical evaluation, the petitioner had obtained the said results by taking recourse to the RTI Act, 2005. From the reply obtained, the petitioner learnt that her technical bid has been rejected on the ground

that there was discrepancy in the signature of the petitioner.

5. I have heard Shri B. D. Goswami, learned counsel for the petitioner whereas the Forest Department is represented by Shri K. P. Pathak, the learned Standing Counsel.

6. It transpires that the discrepancy for which the technical bids of the petitioner has been sought to be rejected as would be discernible from the observations made in the comparative statement is as follows:

“ In the digital signature Nilima Boro signed as Nilima Boro Kalita whereas she signed in the bid documents as Nilima Boro. Further, in the PAN Card & ADHAAR Card her name is Nilima Kalita in this regard, she has not submit any affidavit regarding her name.”

7. Shri Goswami, learned counsel for the petitioner, however, submits that the surname of the petitioner was Boro and she being married to one Shri Binoy Kalita, there was some change in the surname of the petitioner and therefore, there is no substantial change in her personality whether she signs as Nilima Boro or Nilima Boro Kalita or Nilima Kalita.

8. This Court vide order dated 06.12.2023 had directed the learned Standing Counsel to obtain instructions and had accordingly fixed the matter for consideration today. It was further observed that the financial bids should not be opened or the financial auction should not be held till the next date fixed, if not already done.

9. Shri Pathak, the learned Standing Counsel has fairly conceded that the ground of rejection appears to be trivial in nature. However, he has submitted that the financial bids were opened along with the technical bids on 17.11.2023 and the same was followed by an E-Auction held on 01.12.2023 wherein one bidder has been identified. He has further produced a copy of a communication dated 04.12.2023 issued by the Addl. CCF (T) to the PCCF and HoFF towards issuance of the Work

Order.

10. This Court is of the opinion that though there appears that there may be some discrepancy in the surname of the petitioner in her digital signature, in view that her identity and credentials are not in doubt and she was the earlier settlement holder for a period of 7 years of the same Mahal which admittedly was without any blemish, rejection of her bid on technical grounds of the aforesaid nature does not appear to be justified as such discrepancy appears to be trivial in nature.

11. In view of the same, this writ petition is allowed by holding the decision of the Department to reject the bid of the petitioner on technical grounds as unsustainable in law and consequently all further action including the communication dated 04.12.2023 issued by the Addl. CCF (T) to the PCCF and HoFF towards issuance of the Work Order are set aside. It is accordingly directed that the E-Auction be re-done and the petitioner be allowed to participate and the price bid of the petitioner be considered. The aforesaid direction would also be in sync with the requirement of public interest as there would be a possibility of fetching more revenue in the fresh E-Auction which has been directed to be done.

12. Since the issue involves settlement of a Mahal where revenue of the State is concerned, the aforesaid exercise may be carried out expeditiously.

13. Writ petition accordingly stands allowed in the manner indicated above.

14. The documents handed over by Shri Pathak, learned Standing Counsel, Forest Department including the communication dated 04.12.2023 are made part of the records.

JUDGE

Comparing Assistant