

GAHC040002552018



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

Case No. : WP(C)/01/2018

M/S TTTMM PURPOSE SOCIETY
REPRESENTED THROUGH ITS SOLE PROPRIETOR, SHRI NISHAM FLAGO,
S/O LT. TASSANG FLAGO, R/O TYPE-I, COLONY, SEPPA, PO/PS SEPPA, EAST
KAMENG DIST. AP. CONTACT NO. 8131866138

VERSUS

THE STATE OF A.P. AND 13 ORS.
THROUGH THE CHIEF SECRETARY, GOVT. OF AP, ITANAGAR 2:THE
COMMISSIONER

Age: 0

Occupation :

DEPTT. OF HORTICULTURE CUM MANAGING DIRECTOR

APSFAC

GOVT. OF AP

ITANAGAR.

3:THE MISSION DIRECTOR MIDH

Age: 0

Occupation :

DEPTT. OF HORTICULTURE GOVT. OF AP

ITANAGAR.

4:THE DISTRICT HORTICULTURE OFFICER

Age: 0

Occupation :

EAST KAMENG DIST. SEPPA

AP.

5:M/S TRADE AGENCY

Age: 0

Occupation :

REPRESENTED THROUGH ITS PROPRIETOR
SHRI MAI SONAM
R/O TYPE-I COLONY
SEPPA
PO/PS SEPPA
EAST KAMENG DIST. AP.

6:M/S DD TRADERS

Age: 0

Occupation :

REPRESENTED THROUGH ITS PROP. SHRI PYAPO DOKA
R/O TYPE-I COLONY
SEPPA
PO/PS SEPPA
EAST KAMENG DIST. AP.

7:M/S WTB ENTERPRISES

Age: 0

Occupation :

REP. THROUG ITS PROP. SHRI TAGUNG BAGANG
R/O NEW SEPPA
PO/PS SEPPA
EAST KAMENG DIST.A P.

8:M/S S G ENTERPRISES

Age: 0

Occupation :

SEPPA
REPRESENTED THROUGH ITS PROP
SHRI SANJAY GRADOM
R/O TYPE-III COLONY
SEPPA
PO/PS SEPPA
EAST KAMENG DIST.A P.

9:M/S K. DADDA ANNE DONI ENTERPRISES

Age: 0

Occupation :

REP. THROUGH ITS PROP. SHR KOJUM DADD
R/O MAIN BAZAR LINE
SEPPA
PO/PS SEPPA
EAST KAMENG DIST.A P.

10:M/S SY ENTERPRISES

Age: 0

Occupation :
REPRESENTED THROUGH ITS PROPRIETOR
SHRI SUNIL YANGFO
R/O TYPE-III COLONY
PO/PS SEPPA
EAST KAMENT DIST. AP.

11:M/S T. B ENTERPRISES
Age: 0
Occupation :
REP. THROUGH ITS PROPRIETOR
SMTI TACHI BAGANG
R/O BEBO COLONY
SEPPA
PO/PS SEPPA
EAST KAMENG DIST. AP.

12:M/S KK ENTERPRISES
Age: 0
Occupation :
REPRESENTED THROUGH ITS PROPRIETOR
SHRI MANYA WELLY
R/O BAZAAR LINE SEPPA
PO/PS SEPPA
EAST KAMENG DIST.A P.

13:M/S TUNGI ENTERPRISES
Age: 0
Occupation :
REPRESENTED THROUGH ITS PROP. SHRI AKUM TUNGI
R/O TYPE-III COLONY
SEPPA
PO/PS SEPPA
EAST KAMENG DIST.A P.

14:M/S KAMENG AGENCY
Age: 0
Occupation :
SEPPA
REPRESENTED THROUGH ITS PROP. SHRI KOSSAM YANGFO
R/O TYPE-IV COLONY
PO/PS SEPPA
EAST KAMEMG DIST
AP

Advocate for the Petitioner : Mr. R. Sonar

Advocate for the Respondents : Mr. S. Tapin, Sr. GA; Mr. T. Gyatso, S/C Horticulture

**BEFORE
HONBLE MR. JUSTICE N. UNNI KRISHNAN NAIR**

ORDER

Date : 22.07.2024

Heard Mr. R. Sonar, learned counsel for the petitioner. Also heard Mr. S. Tapin, learned Senior Government Advocate for the respondent No. 1 and Mr. T. Gyatso, learned standing counsel, Department of Horticulture, appearing on behalf of the respondent Nos. 2 to 4.

2. The petitioner by way of instituting the present proceeding, has presented a challenge to a Notification, dated 23.10.2017, by which, the respondents No. 5 to 10 were selected for arranging supply of input incentives to beneficiaries under the Mission for Integrated Development of Horticulture (MIDH) and other Horticulture Schemes under the District Horticulture Officer, East Kameng District, for the year 2017-2018.

The petitioner has also presented a challenge to a work order, dated 13.12.2017, by which, the respondents Nos. 5 to 14 were issued with such supply orders.

3. Mr. Sonar, learned counsel for the petitioner, at the outset, has submitted that the very process adopted by the respondents, herein, to select firms and thereafter, to issue supply orders to such firms, is clearly contrary to the scheme involved inasmuch the scheme as involved in the matter requires the authorities to transfer the amount involved

to the beneficiary who would then be at liberty to buy the implements so requisite from a trader having the said implements.

4. It is contended by Mr. Sonar, learned counsel for the petitioner, that the respondents No. 5 to 14 do not have the expertise as mandated under the scheme and they also do not have a fully operational showroom for the purpose of facilitating beneficiaries to come and buy the inputs required and accordingly, it is contended that the supply orders issued to the respondents No. 5 to 14 in addition to be in violation of the provisions of the scheme, is also not sustainable inasmuch the said respondent Nos. 5 to 14 are not eligible for being issued with such work orders.

5. Accordingly, Mr. Sonar, learned counsel, has submitted that this Court would be pleased to interfere with the work orders as issued in the matter in respect of the respondent Nos. 5 to 14.

6. The learned standing counsel appearing for the Directorate of Horticulture, has submitted that the grievances of the petitioner, were so enquired into by a Committee constituted in pursuance to the directions passed by this Court vide order, dated 04.01.2018.

7. The learned standing counsel for the Horticulture Department has placed before this Court, the inquiry report of the Committee as constituted by this Court vide order, dated 04.01.2018.

8. I have heard the learned counsels appearing for the parties and also perused the materials brought on record.

9. The grievance as raised by the petitioner in the present proceeding, having been required by this Court to be enquired into by a Committee constituted by it, a perusal of the report of the said Committee would be called for.

10. The said Committee had submitted its report on 12.04.2018. The Committee upon a due examination of the grievances as raised by the petitioner in the matter and also the allegations raised in the writ petition, proceeded to have a site visit to examine the showrooms/shops of the petitioner as well as the respondent Nos. 5 to 14, herein. On a such visit being conducted on 04.04.2018, the Committee in its report observed that the shop of the petitioner had the maximum quantity of various agri/horti inputs displayed. However, with regard to the shops of the respondent Nos. 5 to 14, the Committee was of the view that some of the shops had a few quantities displayed whereas the majority of the other shops were found closed and/or with no agri/horti inputs available.

11. The Committee, thereafter, examined the concerned authorities including the then District Horticulture Officer, East Kameng District, Seppa. The District Horticulture Officer, East Kameng District, Seppa, had in his statement made before the Committee contended that the supply order of agri/horti inputs were issued to 11 (eleven) firms based on the recommendation of a Board and as per the provisions of paragraph 'e' of the guidelines for implementation of DBT and HORTNET issued by the Commissioner, Horticulture Department, Government of Arunachal Pradesh, vide Memorandum, dated

23.05.2017, as the beneficiaries involved had expressed their inability in procuring the inputs by themselves and had authorized the District Horticulture Officer, East Kameng District, Seppa, to procure the inputs on their behalf.

12. It was further stated by the said District Horticulture Officer, East Kameng District, Seppa, before the Committee that the inputs involved were procured and distributed to the actual beneficiaries through field functionaries at various levels.

13. The District Horticulture Officer, East Kameng District, Seppa, had also submitted that the petitioner firm was issued with maximum amount of supply orders among the selected firms, however, the petitioner firm having failed to supply the inputs within the stipulated time, the supply orders so issued to the petitioner firm were cancelled and re-issued to some other firms, from amongst the firms recommended by the Board concerned. The report further proceeds to note that the supply as involved in the matter was completed and the same had been furnished to the actual beneficiaries. It was further held that the payments against the supply of the inputs were already released to various firms through online Bank transfer in their respective Bank accounts on 03.01.2018.

14. In view of the said materials coming on record; the inquiry committee although has recorded that there were some procedural lapses in the selection of firms who did not have proper showrooms/shops of agri/horti inputs, which was an essential requirement as per the circular issued by the District Horticulture Officer, East Kameng District, Seppa, dated 20.09.2017, however, the Committee took into consideration that the Board as constituted in the matter having empanelled the said firms keeping in view the larger

interest of the struggling entrepreneurs as there was a lack of self-employment opportunity in the East Kameng District, it did not proceed to recommend interference with the supplies made.

15. As regards the other allegations of the petitioner; the Committee had on consideration of the same, rejected it. However, the Committee recorded lack of awareness regarding the Direct Bank Transfer (DBT) process even amongst the field staff of the Department.

16. The Committee on reaching the said conclusions; made the following recommendations:

“Recommendations:-

1. Awareness programmes should be organized in district level for field staff and farmers regarding DBT process and HORTNET to avoid such problems in future.

2. The DHO, Seppa should make all necessary arrangement for implementation of MIDH scheme in full DBT mode in future.

3. To issue an advisory to DHO, Seppa to be more careful in dealing with suppliers in future and strictly abide by Govt. guidelines/ orders issued from time to time.”

17. Having considered the report of the said Committee, this Court is of the considered view that the supply orders having been issued, the supplies involved having been so effected, along with the release of payments thereon to the concerned firms and the fact that the inquiry Committee had not found anything adverse against the departmental

authorities and/or the firms involved; this Court at this distant point of time, would not like to re-open the matter which has already been settled way back in the year 2018. Accordingly, the contentions raised by the petitioner in the present proceeding, is not accepted.

18. However, noticing that the inquiry Committee had made some recommendations in the matter which has been noted hereinabove; the departmental authorities are hereby directed to strictly adhere to the said recommendations in the implementation of the scheme involved in East Kameng District provided the same scheme is still in operation as on date and/or its manner of implementation has not in the meantime been altered.

19. With the above directions and observations, this writ petition stands disposed of.

JUDGE

Comparing Assistant