

GAHC010022322024



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

Case No. : WP(C)/600/2024

FATIK DAS
R/O BAMUNIMADAM
RAILWAY COLONY, BYE LANE NO. 2, NEAR BIHU FIELD,
P.O. AND P.S. CHANDMARI
DIST. KAMRUP (METRO), ASSAM
PIN-781021

VERSUS

THE STATE OF ASSAM AND 3 ORS
REP. BY THE SECRETARY TO THE GOVT. OF ASSAM, GUWAHATI
DEVELOPMENT DEPARTMENT, DISPUR, GUWAHATI-781006.

2:THE HONBLE MAYOR
GUWAHATI MUNICIPAL CORPORATION
GUWAHATI
P.O. AND P.S. PANBAZAR

IN THE DISTRICT OF KAMRUP (METRO)
ASSAM
PIN-781001.

3:THE COMMISSIONER

GUWAHATI MUNICIPAL CORPORATION GUWAHATI
MARKET BRANCH
LAKHTOKIA
GUWAHATI
ASSAM-781001.

4:THE JOINT COMMISSIONER

GUWAHATI MUNICIPAL CORPORATION
GUWAHATI
MARKET BRANCH
LAKHTOKIA
GUWAHATI
ASSAM-78100

Advocate for the Petitioner : MR. K SINGHA

Advocate for the Respondent : SC, GMC

**BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA**

ORDER

09.02.2024

1. Heard Mr. K. Singha, learned counsel for the petitioner as well as Mr. P. Nayak, learned Standing Counsel, GMC.
2. The petitioner's grievance is that his application dated 30.01.2024 addressed to the Commissioner, Guwahati Municipal Corporation (respondent No.3) for extension of his settlement period of the Beltola Biweekly Market for another 9 months has not been decided till date. He accordingly prays for a direction to be issued to the respondent No. 3 to take a decision on the matter.
3. Mr. P. Nayak, learned Standing Counsel, GMC submits that he has got no objection to the prayer made by the petitioner.
4. The facts of the case in brief is that pursuant to an NIT dated 02.03.2023, for settling the Beltola Biweekly Market for the year 2023-24, with effect from 01.04.2023 to 31.03.2024, the petitioner and two other bidders submitted their tenders. The respondents cancelled the Tender Notice vide order dated 13.04.2023, due to non-compliance of the terms and conditions of the tender

notice by the tenderers.

5. Being aggrieved by the same, the petitioner, who was the second highest bidder, made a challenge to the same vide WP(C) No.3388/2023. Another bidder, namely Dharma Kanta Das also made a challenge to the cancellation of the Tender Notice vide WP(C) No. 2088/2023. Dharma Kanta Das had made a challenge to the cancellation of the Tender Notice on the ground that out of the three bidders, his bid was declared valid, while the bids of the petitioner herein and another person had been disqualified. As his bid was the only surviving bid, he should be settled with the market.

6. This Court disposed of WP(C) No.2088/2023 and WP(C) No.3388/2023 by a common judgment and order dated 22.12.2023. With regard to the case of Dharma Kanta Das [WP(C) 2088/2023], this Court held that the market could not be settled with the lone surviving bidder in terms of Clause 4.18 of the CVC Guidelines and the Procurement Rules of 2020. This Court also held that in the alternative, Dharma Kanta Das would not be entitled to any relief if the bid of the petitioner herein, who had filed WP(C) No.3388/2023 was considered, as the bid amount of the petitioner herein was more than the bid amount of Dharma Kanta Das. The case of the petitioner herein was allowed by this Court, by directing the State respondents to condone the defect in the bid of the petitioner and grant him settlement of the market in accordance with law. This Court also made an observation in the judgment and order dated 22.12.2023 as follows-

“Since the settlement is for one year and a substantial period is already over, the aforesaid direction be complied with as early as possible and in any event within three weeks from today”

7. In pursuance to the common judgment and order dated 22.12.2023 passed in WP(C) Nos.2088/2023 and 3388/2023, the market was settled with the petitioner for a period of 3 months from 01.01.2024 to 31.03.2024, vide settlement order dated 29.12.2023.

8. The petitioner's counsel submits that the tender notice having been made for settlement of the market for 1 year, the settlement of the market with the petitioner should be for 1 year and in this regard, he has relied upon Clause 11 of the "Terms and Conditions for settlement of the lease market of Guwahati Municipal Corporation for the year 2023-24 (12 months) w.e.f. 01.04.2023 to 31.03.2024", which states as follows-

"11. In case of any delay for issuance of the final lease order, the adjustment will be made considering the issue date of the lease order (L.O.I) as the starting date of the lease period. The total payable amount will be calculated starting from the issue dates of the lease up to the end date of the lease."

9. The petitioner's counsel submits that due to the cancellation of the tender and the time taken for disposal of the writ petition, settlement of the market for the petitioner has been arbitrarily made for 3 months only, while the market should have been settled with him for 12 months, in terms of the above Clause 11.

10. Mr. P. Nayak, learned Standing Counsel, GMC, on the other hand, submits that Clause 11 relates to adjustment to be made with regard to the bid offered by a tenderer and does not relate to extension of time.

11. Be that as it may, as the counsels for the parties have consented that the petitioner's application for extension should be decided by the respondent No.3, the respondent No. 3 is directed to take a decision on the petitioner's application

dated 30.01.2024, within a period of 1 week from the date of receipt of a certified copy of this order.

12. The writ petition is accordingly disposed off.

JUDGE

Comparing Assistant