

GAHC010040092024



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

Case No. : WP(C)/1079/2024

M/S BODOLAND SECURITY SERVICES
REPRESENTED BY ITS AUTHORISED REPRESENTATIVE SRI BIRBLA
KARJEE, HAVING ITS OFFICE AT KAJALGAON, PO KAJALGAON, DIST
CHIRANG, BODOLAND TERRITORIAL COUNCIL, ASSAM 783385

VERSUS

THE UNION OF INDIA AND 3 ORS
REPRESENTED BY THE SECRETARY, MINISTRY OF EDUCATION,
DEPARTMENT OF HIGHER EDUCATION GOVT. OF INDIA, EW DELHI 110001

2:THE CENTRAL INSTITUTE OF TECHNOLOGY
DEEMED TO BE UNIVERSITY MINISTRY OF EDUCATION
GOVT. OF INDIA
REP. BY THE DIRECTOR KOKRAJHAR
BTR
ASSAM 783370

3:THE DIRECTOR
CENTRAL INSTITUTE OF TECHNOLOGY
DEEMED TO BE UNIVERSITY MINISTRY OF EDUCATION
GOVT. OF INDIA
REP. BY THE DIRECTOR KOKRAJHAR
BTR
ASSAM 783370

4:THE REGISTRAR
CENTRAL INSTITUTE OF TECHNOLOGY
DEEMED TO BE UNIVERSITY MINISTRY OF EDUCATION
GOVT. OF INDIA
REP. BY THE DIRECTOR KOKRAJHAR
BTR

ASSAM 78337

Advocate for the Petitioner : MR. A BORO

Advocate for the Respondent : DY.S.G.I.

**BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA**

ORDER

24.04.2024

Heard Mr. A. Boro, learned counsel for the petitioner and Ms. B. Sarma, learned counsel for all the respondents.

2. The petitioner's grievance is that the petitioner has been barred from participating in the Notice Inviting e-Tender dated 15.02.2024 (hereinafter referred to as "the NIT"), in view of Clause 17 of the Eligibility Criteria, which states that bidders must not have pending Court cases against CIT, Kokrajhar, i.e. the authority which issued the NIT. The petitioner's counsel submits that the said Clause is illegal and hit by Article 12 & 14 of the Constitution of India and as such, should be set aside.

3. The petitioner's counsel submits that the petitioner cannot be barred from pursuing his legal remedy and as such, Clause 17 of the Eligibility Criteria of the NIT should be set aside.

4. Ms. B. Sarma, learned counsel for the respondents submits that in terms of the interim order passed by this Court on 04.03.2024, the petitioner had submitted his bid pursuant to the NIT and the same has been accepted by the respondents. She submits that the Registrar, Central Institute of Technology, Kokrajhar has written letter No. CITK/Security Guard/118/2023/09 dated 03.04.2024, praying that this Court may allow the respondents to open and declare the technical and financial bid, pursuant to the NIT, which will include consideration of the petitioner's bid.

- 5.** I have heard the learned counsels for the parties.
- 6.** On perusal of the pleadings and the issue raised by the petitioner, it is seen that the petitioner had participated in an earlier NIT dated 26.06.2023 issued by the CIT, Kokrajhar for providing housekeeping service to the same. The petitioner was not selected at the financial bid evaluation stage, on the ground that the rates quoted by him did not include the GST rate on the service amount quoted by him. Being aggrieved by the same, the petitioner had filed WP(C) No.5427/2023, which is still pending before this Court.
- 7.** This Court had, vide the interim order dated 04.03.2024 passed in this case, allowed the petitioner to submit his bid, in terms of the NIT. However, the respondents were directed not to pass any final order pursuant to the NIT, without the leave of this Court.
- 8.** In view of the urgency expressed by the respondents for finalizing the tender process and keeping in view the fact that the petitioner's tender would also be considered by the respondents, besides this Court's prima facie view that a person cannot be penalized from pursuing their legal remedy, this Court finds that Clause 17 of the Eligibility Criteria of the NIT is not sustainable. Accordingly, keeping in view the facts and circumstances of this case, coupled with the respondents' intention to consider the petitioner's tender, Clause 17 of the Eligibility Criteria of the NIT dated 15.02.2022 is hereby set aside. The respondents shall consider the bid of the petitioner along with all other valid bids and finalize the tender process as per the law.
- 9.** This writ petition is accordingly disposed of.

JUDGE

Comparing Assistant