

GAHC010040112024



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

Case No. : WP(C)/1035/2024

M/S S L INFRA PROJECTS (INDIA)
HEAD OFFICE AT BORORAMPUF MEHER, DOLU BORKHOLA, SILCHAR,
DISTRICT- CACHAR, ASSAM, PIN- 788111, REPRESENTED BY ITS
PROPRIETOR SRI SANJIB KUMAR NATH, AGE 48 YEARS, SON OF SATYA
RANJAN NATH, RESIDENT OF MEHERPUR BATTARoad, MEHERPUR, P.S.
GHUNGOOR, SILCHAR, DISTRICT- CACHAR, ASSAM, PIN- 788015

VERSUS

NATIONAL HIGHWAYS AND INFRASTRUCTURE DEVELOPMENT CORP LTD
AND 2 ORS
REPRESENTED BY THE MANAGING DIRECTOR, 3RD FLOOR, PTI
BUILDING, 4-PARLIAMENT STREET, NEW DELHI- 110001

2:THE EXECUTIVE DIRECTOR (ED)
REGIONAL OFFICE
2ND FLOOR
AGNISHANTI BUSINESS PARK
OPPO. AGP OFFICE
GNB ROAD
AMBARI
GUWAHATI
PIN- 781001

3:THE GENERAL MANAGER (PROJECTS)
NATIONAL HIGHWAYS AND INFRASTRUCTURE DEVELOPMENT CORP.
LTD. REGIONAL OFFICE
2ND FLOOR
AGNISHANTI BUSINESS PARK
OPPO. AGP OFFICE
GNB ROAD
AMBARI

GUWAHATI
PIN- 78100

Advocate for the Petitioner : MR. T BARUAH

Advocate for the Respondent : SC, NHIDC

**BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA**

ORDER

06.03.2024

1. Heard Mr. K. Boruah, learned counsel for the petitioner and Mrs. R. Bora, learned counsel appearing for all the respondents.
2. The learned counsel for the petitioner submits that the petitioner had participated in the NIT dated 23.12.2023 for maintenance of road. The petitioner was found to be the lowest tenderer, after opening the Technical Bids and Financial Bids of the tenderers.
3. However, the NIT dated 23.12.2023 was cancelled vide Letter dated 17.02.2024, which stated that the bidding process was annulled due to technical reasons and fresh bid shall be re-invited shortly. However, on the same day itself, i.e. 17.02.2024, another NIT was issued, wherein the Technical Bids were to be opened on 28.02.2024.
4. The petitioner's counsel submits that no clear reasons have been given as to why the earlier tender process had been annulled, except by stating that it was done due to technical reasons.
5. Ms. R. Bora, learned counsel for the respondents submits that affidavit-in-

opposition has been filed today and the fact that the petitioner had been debarred from participating in any future tenders for 2 years vide Letter dated 20.04.2023, issued by the NHIDCL has been kept hidden from this Court.

6. The counsel for the petitioner submits that subsequent to the debarment of the petitioner from participating in any tender for 2 years, the petitioner submitted a representation against the same to the concerned authorities. However, the same has not been decided by the authorities till date. He also submits that the petitioner has taken part in the other tender works thereafter.

7. The Letter "Without Prejudice" No. NHIDCL/RO-Imphal/R&R/I-K/Km 274.610 to Km 297.700/ 2022-23/05 dated 20.04.2023 issued by the DGM(P), RO-Imphal, at para 12, 13 and 14 is to the following effect:-

"12. In light of the aforesaid facts and circumstances, the Competent Authority of NHIDCL is of the view that the Contract Agreement with M/s SL Infra Project (India) is hereby terminated with immediate effect in accordance with Clause 53.1 & 53.2 (a) & (I) of Section V of the Contract Agreement

Further, the Performance Security and Retention Money submitted by the Contractor shall be encashed in pursuant to Clause 53.3 (a) of the Contract Agreement, and the Contractor shall be debarred for a period of 02 years from participating in future bids of NHIDCL

13. This termination order is issued without prejudice to any other right or remedy available with the Authority under the Contract Agreement and/or applicable law.

14. This issues with the approval of the Competent Authority."

8. On considering the Letter "Without Prejudice" dated 20.04.2023, which shows that the petitioner has been debarred from participating in any future bids of the NHIDCL, this Court is of the view that the petitioner cannot have any enforceable right in this petition to participate in the NIT dated 23.12.2023 unless and until his debarment in terms of the above letter is lifted or set aside by this Court.

9. Accordingly, in view of the reasons stated above, the writ petition stands dismissed, as no enforceable right of the petitioner has been violated.

10. Registry to place on record the affidavit filed by the respondent Nos. 1, 2 and 3.

11. Interim order passed earlier stands vacated.

JUDGE

Comparing Assistant