

GAHC010047542024



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

Case No. : WP(C)/1314/2024

DEFODIL DAS
S/O ADHAN CHANDRA DAS, R/O AMULAPATTY, WARD NO. 9, SIVASAGAR,
P.O. AND P.S.-SIVASAGAR, PIN-785640, DIST-SIVASAGAR, ASSAM

VERSUS

THE STATE OF ASSAM AND 3 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM, EXCISE DEPARTMENT, DISPUR, GUWAHATI-6

2:THE DISTRICT COLLECTOR
NAGAON DISTRICT
NAGAON-782001

3:THE SUPERINTENDENT OF EXCISE
EXCISE DEPARTMENT
NAGAON
782001
ASSAM

4:SUMIT SARMA
C/O SUPERINTENDENT OF EXCISE
DIST-NAGAON-782001
ASSA

Advocate for the Petitioner : MR. D BARUAH

Advocate for the Respondent : SC, EXCISE DEPTT.

**BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA**

ORDER

15.03.2024

1. Heard Mr. D. Baruah, learned counsel for the petitioner. Also heard Mr. K.P. Pathak, learned counsel for the Excise Department.

2. The petitioner's grievance is with regard to his Technical Bid being disqualified on the ground that the petitioner had not submitted proper Police Verification Report, in terms of Clause 6.2.20 of the NIB and APDCL Clearance Certificate, in terms of Clause 6.2.18 of the NIB. The further grievance of the petitioner is that he had not been informed that the last date of submission of tender in terms of the NIB was 17.01.2024 had been extended to 18.01.2024 by the Superintendent of Excise.

3. The petitioner's case in brief is that the petitioner applied for Indian Made Foreign Liquor (IMFL) Retail Off Licence, in terms of the Notice Inviting e-Bid (NIB) dated 14.12.2023. As stated in the foregoing paragraphs, the petitioner's Technical Bid was disqualified on two grounds, i.e. non-submission of proper Police Verification Report and APDCL Clearance Certificate.

4. The petitioner's counsel submits that if the petitioner had been informed of the extension of the last date of submission of tender documents from 17.01.2024 to 18.01.2024, the petitioner could have submitted the proper documents on the extended last date. The petitioner's counsel submits that though the petitioner did not submit the APDCL Clearance Certificate online, he

had brought hard copies of his Electricity Bills, which showed that he had paid all his electricity dues at the time of submission of physical copies of the documents.

5. Mr. K.P. Pathak, learned counsel for the Excise Department, on the other hand submits that the extension of the last date of submission of the tender documents in terms of the NIB dated 17.01.2024 to 18.01.2024, had been done by the Superintendent of Excise, after due approval had been taken from the concerned Deputy District Collector. In this regard, he has submitted letter No. NXE-33/2023-2024/Pt-I dated 06.03.2024 issued by the Superintendent of Excise, Nagaon, which is addressed to the counsel for the Excise Department Mr. P.N. Goswami.

6. Mr. K.P. Pathak submits that the petitioner did not submit proper Police Verification Report and he did not submit any "No Dues Electricity Certificate" from the APDCL, in terms of Clause 6.2.20 and Clause 6.2.18 of NIB respectively.

7. I have heard the learned counsels for the parties.

8. The submissions made by the learned counsels for the parties make it clear that the petitioner had not submitted any APDCL Clearance Certificate or Electricity Bills online, showing that he had cleared all his electricity dues at the time of uploading his tender documents in terms of the NIB. The respondents, as such, cannot be faulted for disqualifying the bid of the petitioner for non-

complying with Clause 6.2.18 of the NIB. Further, the subsequent deposit of physical documents does not, in any way, correct the mistake made by the petitioner, in not submitting his APDCL Clearance Certificate online. As the question of acceptance of the tender documents lies solely with the author of the tender documents and as the State respondents have disqualified the petitioner's Technical Bid on germane grounds, the disqualification cannot be faulted.

9. In view of the reasons stated above, this Court does not find any reason to exercise its discretionary power.

10. The writ petition is accordingly dismissed.

JUDGE

Comparing Assistant