

GAHC010048812024



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

Case No. : WP(C)/1396/2024

ONE TO TEN SOLUTIONS PVT LTD
HOUSE NO. 26, BYE LANE 17, JANAPATH
SIX MILE, PURAN BASTI, P.O.- KHANAPARA,
POLICE STATION- DISPUR, GHY-22, ASSAM.
A PRIVATE LIMITED COMPANY REPRESENTED BY ITS DIRECTOR-
SADDAM HUSSAIN (AGE 29 YEARS),
SON OF CHAND MAHAMOD ALI,
RESIDENT OF RADHA NAGAR, PURNA BASTI,
SIX MILE, P.S. DISPUR, GUWAHATI,
DISTRICT- KAMRUP(M), ASSAM.

VERSUS

THE GUWAHATI MUNICIPAL CORPORATION AND ANR
GANESHGURI, GUWAHATI- 781006, ASSAM.
REPRESENTED BY THE COMMISSIONER, GUWAHATI MUNICIPAL
CORPORATION.

2:THE COMMISSIONER
GUWAHATI MUNICIPAL CORPORATION
GANESHGURI GUWAHATI- 781006

Advocate for the Petitioner : MR. Y S MANNAN

Advocate for the Respondent : SC, GMC

BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA
ORDER

Date : 07.03.2024

Heard Mr. Y. S. Mannan, learned counsel for the petitioner and Mr. P. Nayak, learned counsel for the GMC.

2 The petitioner is aggrieved with the cancellation notice dated 29.02.2023, by which the NIB dated 03.02.2024, wherein he was the lowest bidder (L1), has been cancelled.

3. The petitioner's counsel submits that the bids submitted pursuant to the NIB dated 03.02.2024 "for transportation of carriage services for 2,00,000 Metric Tone of Wastes from Belortol dump site to Bio-mining plant of Boragaon" was opened on 27.02.2024, wherein the petitioner was found to be L1. However, vide the impugned cancellation notice dated 29.02.2024, the NIB dated 03.02.2024 was cancelled two days later, without giving any reason whatsoever.

4. Thereafter, a fresh NIB dated 29.02.2024 was issued on the day the cancellation notice dated 29.02.2024 was issued and the last date for submission of tender is 11.03.2024.

5. The petitioner's counsel has referred to Clause 37 of the bidding document, which provides that the procuring entity "shall keep record of clear and logical reasons properly" for any action, regarding the decision to cancel or recall any bidding process. He submits that no reasons have been enumerated in the cancellation notice, prior to cancelling the NIB dated 03.02.2024.

6. Mr. P. Nayak, learned counsel for the GMC has however submitted the comprehensive note issued by the GMC, with regard to the NIB dated 03.02.2024, which states at paragraph 7 that the lowest bid received was from the petitioner for an amount of Rs. 7.64 crores, while the official file and records had an estimate of Rs. 2.72 crores. Further, the comprehensive note records that negotiation had been made with the petitioner. However, the bidder had not agreed to reduce the price for which the negotiation could not be successfully

concluded. Hence, cancellation of the tender notice was required. The comprehensive note also records that while the cancellation notice was published on 29.02.2024 along with the publication of the new tender notice, the bidder had submitted an e-mail on 01.03.2024 to allow time for negotiation.

7. The comprehensive note submitted by the counsel for the GMC and the letter dated 29.02.2024 issued by the Additional Commissioner, GMC shows that the re-tender has been made, due to the high price quoted by the bidders and that re-tender was made to obtain lower bids than what had been tendered in the NIB dated 03.02.2024.

8. At this stage, Mr. Y.S. Mannan, learned counsel for the petitioner prays that he may be allowed to participate in the NIB dated 29.02.2024, wherein the last date of submission of bid is 11.03.2024.

9. In view of the fact that the last date of submission of the bid is 11.03.2024, the petitioner is allowed to participate in the NIB dated 29.02.2024. Earnest money and security deposit already deposited by the petitioner, with regard to the NIB dated 03.02.2024, may be adjusted by the respondents, when the petitioner files his bid in respect of the present NIB dated 29.02.2024.

10. The writ petition is accordingly disposed of.

11. The comprehensive note and the letter dated 29.02.2024 issued by the Additional Commissioner, GMC are made a part of the record and marked as Annexure 'X' collectively.

JUDGE

Comparing Assistant