

GAHC010061762024



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

Case No. : WP(C)/1677/2024

DIPANKAR BAYAN
S/O SRI BADYA NATH BAYAN
RESIDENT OF BARPETA SHANTIPUR, WARD NO. 20 PS AND DIST
BARPETA, ASSAM 781314

VERSUS

THE STATE OF ASSAM AND 5 ORS
REPRESENTED BY THE DIRECTOR, MUNICIPAL ADMINISTRATION, ASSAM
, DISPUR GUWAHATI 781006

2:THE DISTRICT MUNICIPAL ADMINISTRATION

ASSAM
DISPUR
GUWAHATI 781006

3:THE DISTRICT COMMISSIONER

BARPETA
ASSAM 781301

4:THE PRESIDENT
BARPETA MUNICIPAL BOARD
BARPETA
ASSAM 781301

5:THE EXECUTIVE OFFICER

BARPETA MUNICIPAL BOARD
BARPETA
ASSAM 781301

6:SRI MINTU KUMAR DAS
S/O MANINDRA NATH DAS
RESIDENT OF VILLAGE DAHATI
SHANTIPUR
BARPETA
ASSAM 78130

Advocate for the Petitioner(s) : Mr. B. Choudhury

Advocate for the Respondent(s) : Mr. S.R. Boruah, Mr. N. Alam, Mr. K. Gogoi

Date of Hearing and Judgment: 15.07.2024

**BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH**

JUDGEMENT AND ORDER (ORAL)

Heard Mr. B. Choudhury, the learned counsel appearing on behalf of the petitioner also heard Mr. K. Gogoi, the learned Government Advocate appearing on behalf of the respondent Nos. 1, 2 and 3 and Mr. S.R. Boruah, the learned Standing Counsel appearing on behalf of the respondent Nos. 4 and 5; and Mr. N. Alam, the learned counsel appearing on behalf of the respondent No. 6.

2. The present petition has been filed by the petitioner challenging the issuance of the order dated 22.02.2024 bearing No. BMR - 6/2023-24/888 as well as any other consequential orders in terms with the tender notice dated 17.01.2024.

3. For appreciation of the dispute involved in the instant proceedings, it is relevant to take note of that a tender notice was issued by the Office of the Barpeta Municipal Board for settlement of markets and parking lots of Barpeta Municipality for collection of tax/toll/parking tax for the year 2024-2025 from 01.04.2024 to 31.03.2025. Amongst the various terms included in the said tender notice, one of such term included that the bidders are required to submit a financially sound certificate issued by the concerned authority, financial institution etc along with quotations. The petitioner along with various other bidders have duly participated in the said tender process.

4. Pursuant to the said tender process being initiated, the concerned respondent authorities have prepared a comparative statement of the tender documents from the various bidders. The said comparative statement has been enclosed as Annexure-1 to the affidavit filed by the respondent Nos. 4 and 5. From a perusal of the said comparative statement, it is seen that all the five bidders have been technically responsive in submission of all the documents. From the said comparative statement, it reveals that the five bidders quoted as such:

Sri Preetirekha Das Dahati - Rs. 57,99,501.00

Sri Amen Das Rayotpar Rs. 52,99,501.00

Sri Mintu Kumar Das Rs. 45,99,501.00

Sri Dipankar Bayan Rs. 45,50,000.00 and

Sri Utpal Das Rs. 42,00,000.00.

5. It has been submitted at the bar that the bidders Sri Amen Das Rayotpar and Sri Preetirekha Das declared that they are no longer interested and as such the tender was settled in favour of the private respondent Sri Mintu Kumar Das @ Rs. 45,99,501.00.

6. It is the specific case of the petitioner herein that the respondent authorities have committed illegality in holding that the private respondent No. 6 to be technically responsive inasmuch as the private respondent has not submitted any certificate that he is financially sound issued by a concerned authority, financial institution etc along with the quotation. It is under such circumstances the instant writ petition has been filed.

7. This Court has duly taken note of the affidavit-in-opposition which have been filed and from a perusal of the said affidavit-in-opposition filed by the respondent Nos. 4 and 5, it reveals that the certificate on the basis of which the respondent No. 6 was held to be technically responsive is a certificate issued by the Canara Bank stating that the respondent No. 6 is maintaining savings account and his account is satisfactory. This Court has also perused the records wherein it is also seen that all other tenderers have been issued the similar certificate. It is however relevant to mention that the certificate which have been issued to the petitioner there is a mention to the effect that the petitioner is financially sound. Be that as it may, the respondent authorities have construed the certificate which have been issued by the Canara Bank in favour of the respondent No. 6 to be a certificate in compliance with Clause 4. Additionally, it is also seen from records that there is also a surety given by one

Sri Manoj Kumar Das by pledging his house along with the valuation certificate.

8. Under such circumstances, in the opinion of this Court, as the respondent authorities have construed the said certificate which is similarly issued in respect of other tenderers also to be a certificate in compliance with Clause 4, this Court in exercise of the powers under judicial review cannot sit over the same for which this Court is not inclined to interfere with the impugned order bearing No. BMR-06/2023-24/888 dated 22.02.2024.

9. Accordingly this instant petition stands dismissed. The records which have produced by the Mr. S.R Boruah, is returned.

10. Interim order if any, stands vacated.

JUDGE

Comparing Assistant