

GAHC010123062024



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

Case No. : WP(C)/3135/2024

M/S SANDIP LAL KEDIA AND ANR
THE PROPRIETOR FIRM HAVING ITS REGISTERED OFFICE AT DWARKA
ENCLAVE, MALIGAON, GUWAHATI-781011, DIST. KAMRUP(M), ASSAM

2: SANDIP KEDIA
THE PROPRIETOR OF M/S SANDIP LAL KEDIA
R/O- DWARKA ENCLAVE
MALIGAON
GUWAHATI-781011
DIST. KAMRUP(M)
ASSA

VERSUS

THE UNION OF INDIA AND 10 ORS
REPRESENTED BY THE CHAIRMAN AND CEO OF THE INDIAN RAILWAYS,
MINISTRY OF RAILWAYS, 21 RAIL BHAVAN, RAISINA ROAD, NEW DELHI-
110001.

2:THE CENTRAL VIGILANCE COMMISSION
REPRESENTED BY THE PRINCIPAL EXECUTIVE DIRECTOR (VIGILANCE)
THE CHIEF VIGILANCE OFFICER
SATARKATA BHAVAN
BLOCK-A
GPO COMPLEX
INA
NEW DELHI-110023.

3:THE PRINCIPAL EXECUTIVE DIRECTOR (VIGILANCE)

THE CHIEF VIGILANCE OFFICER
SATARKATA BHAVAN
BLOCK-A

GPO COMPLEX
INA
NEW DELHI-110023.

4:THE DIVISIONAL RAILWAY MANAGER/WORKS

NORTH EAST FRONTIER RAILWAY
LUMDING-782447
DIST. HOJAI
ASSAM

5:THE PRINCIPAL CHIEF ENGINEER (PCE)

NF RAILWAY
MALIGAON
GUWAHATI
DIST. KAMRUP(M)
ASSAM
PIN- 781011.

6:THE GENERAL MANAGER (GM)

NF RAILWAY
MALIGAON
GUWAHATI
DIST. KAMRUP(M)
ASSAM
PIN- 781011.

7:SHYAM ENGINEERING NAGAON BAZAR
NEAR SHIV MANDIR
LUMDING
DIST. HOJAI
ASSAM
PIN- 782447.

8:M/S TRIBENI CONSTRUCTION LIMITED
1ST FLOOR
ULUBARI
G.S. ROAD
GUWAHATI
DIST. KAMRUP(M)
ASSAM
PIN- 781007.

9:M.K. ENGINEERING

RS COMPLEX

BORAGAON
DEVKOTA NAGAR
KAMAKHYA
GUWAHATI
PIN- 781011
DIST. KAMRUP(M)
ASSAM

10:M V V SATYANARAYANA
6-1-136/5/A
WALKER TOWN
SECUNDERABAD
PIN- 500025
TELANGANA.

11:S M INTERIOR PRIVATE LIMITED
DURGACHAK
BLOCK-A
HALDIA
PURBA MEDINIPUR
WEST BENGAL
PIN- 721602

Advocate for the Petitioner : MR. A K DAS

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

**BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA**

ORDER

24.06.2024

Heard Mr. A. Narzari, learned counsel for the petitioners. Also heard Mr. S.S. Roy, learned counsel for the respondents.

2. The case of the petitioners is that the petitioners and “MP Sitani and sons” represented by its partner Sri Aditya Sitani, executed a Memorandum of Understanding, whereby “M.P. Sitani and sons” and the petitioners

proprietorship firm entered into a joint venture, in the name of 'MPS and SLK JV'. The joint venture was made for the sole purpose of participating in the tender notice no.LMG-ENGG-24-2024. The petitioners counsel submits that in terms of the tender terms, the prospective bidders were to submit a list of works in progress for bid capacity evaluation, duly verified by Chartered Accountant.

2. Though the Joint venture submitted a list of works in progress duly verified and certified by a Chartered Accountant, the petitioners bid was rejected on 14.06.2024, on the ground that their list of works in progress for bid capacity evaluation, was not certified by Chartered Accountant.

3. I have perused page Nos.20 to 22 of the writ petition which pertains to the list of works under execution. The said documents at Page Nos.20 to 22 do not have any seal or signature of any Chartered Accountant. Clause-a of the tender form (Page 24 & 25 of the writ petition) requires the existing commitments and balance amount of ongoing works with each member of the JV, either in individual capacity or as a member of the JV, to be a part of the tender documents which should be duly verified by a Chartered Account. The relevant Clause-a, which is at Page 24 & 25 of the writ petition, is reproduced hereinbelow as follows:-

“a. The Tenderer(s) shall furnish the details of -

i. Maximum value of construction works executed and payment received in any one of the previous three financial years or the current financial year (up to date of inviting tender) for calculating A, and

ii. Existing commitments and balance amount of ongoing

works with tenderer as per the prescribed proforma of Railway for statement of all works in progress and also the works which are awarded to tenderer but yet not started upto the date of inviting of tender for calculating B. In case of no works in hand, a 'NIL' statement should be furnished.

The submitted details for (i) and (ii) above should be duly verified by Chartered Accountant.

b. In case if a bidder is JV, the tenderer(s) must furnish the details of

i) Maximum value of construction works executed and payment received in any one of the previous three financial years or the current financial year (up to date of inviting tender) by each member of JV for calculating A, and

ii. Existing commitments and balance amount of ongoing works with each member of JV either in individual capacity or as a member of other JV as per the prescribed proforma of Railway for statement of all works in progress and also the works which are awarded to each member of JV either in individual capacity or as a member of other JV but yet not started upto the date of inviting of tender for calculating B. In case of no works in hand, a 'NIL' statement should be furnished.

The submitted details for (i) and (ii) above should be duly verified by Chartered Accountant."

4. As stated earlier, the existing commitments and balance amount of ongoing works of the petitioners was required to be duly verified by a Chartered Account, which has not been done. However, the same has not been complied with, as per the terms and conditions of the tender notice. In that view of the matter, this Court does not find any ground to interfere with the rejection of the petitioners bid on 14.06.2024, on the ground that the list of works in progress for bid capacity evaluation, was not certified by a Chartered Accountant.

5. The writ petition is accordingly dismissed.

JUDGE

Comparing Assistant