

GAHC010173762023



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

**Case No. : WP(C)/4739/2023**

KINARAM BORO  
S/O- LATE DHONI RAM BORO  
VILL.- LODABARI  
P.O. BENGALIGAON  
DIST.- UDALGURI  
ASSAM

VERSUS

THE BODOLAND TERRITORIAL COUNCIL AND 4 ORS  
REPRESENTED BY ITS PRINCIPAL SECRETARY  
KOKRAJHAR  
ASSAM

2:THE CHAIRMAN  
MARKET SETTLEMENT COMMITTEE  
BTC  
KOKRAJHAR  
ASSAM

3:THE JOINT SECRETARY  
BTC  
KOKRAJHAR  
ASSAM

4:THE BLOCK DEVELOPMENT OFFICER  
BECHIMARI DEVELOPMENT BLOCK

5:SUBHASH BASUMATARY  
S/O- LATE PRADIP BASUMUTARY  
R/O- DEWRIGAON  
P.O. GERUA BAZAR  
DIST.- UDALGURI  
ASSAM

-----

Advocate for : MR. J LASKAR

Advocate for : SC

BTC appearing for THE BODOLAND TERRITORIAL COUNCIL AND 4 ORS

**BEFORE  
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA**

**ORDER**

**06.02.2024**

1. Heard Mr. J. Laskar, learned counsel for the petitioner. Also heard Ms. R.B. Bora, learned Standing Counsel for the BTC.

2. The petitioner's case is that by publishing a Tender Notice dated 20.05.2023, the respondent no. 4 invited sealed tenders for settlement of 4 [four] nos. of Markets and 1 [one] Fishery under the Bechimari Development Block for the year 2023 – 2024, that is, from 01.07.2023 to 30.06.2024. One of the markets sought to be so settled by the said Tender Notice dated 20.05.2023, was Gerua Market ['the Market', for short] with a scheduled rate of Rs. 15,152/-. In response to the Tender Notice, a number of bidders including the petitioner and the respondent no. 5 submitted their bids. According to the petitioner, by quoting a bid value of Rs. 74,656/-, he emerged as the highest bidder and the respondent no. 5 had quoted a bid value of Rs. 70,100/-. As per the Comparative Statement prepared by the respondent authorities, the petitioner's bid was found compliant in all respects and as such, the Market ought to have been settled in favour of the petitioner. Clause 11 of the Tender Notice had stipulated that the competent authority would make settlement of the highest bidder if all the necessary documents and Government revenue were found in order. The petitioner has contended that he had deposited the

offered rate for the Market in conformity with Clause 5 of the Tender Notice. However, by letter bearing no. BTC/Market-01/2020/Pt-108 dated 03.07.2023, the respondent BTC authorities have approved the settlement of the Market in favour of the respondent no. 5 at his offered bid value of Rs. 70,100/-. Pursuant to such approval, a temporary settlement order dated 03.07.2023 has been issued by the respondent no. 4 in favour of the respondent no. 5, ignoring the highest valid bid of the petitioner. Aggrieved thereby, the petitioner has preferred the writ petition.

3. Ms. R.B. Bora, learned Standing Counsel submits that as per the affidavit filed by the respondent no.3, the bid of the petitioner had been rejected on the ground that the petitioner had not submitted the Original Tax Clearance Certificate from the concerned Block Development Officer and the GST Clearance Certificate was not signed. She also submits that as per the original records which she has brought today, the petitioner has not submitted the Original Land Patta and Jamabandi Copy. She accordingly submits that there is no infirmity with the decision of the respondents in rejecting the bid of the petitioner.

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

5. Clause 8(b), (f) and (j) of the NIT dated 24.05.2023 states as follows :

*“8(b) Original Land Patta and Jamabandi Copy.*

*(f) GST Clearance, if applicable.*

*(j) Tax Clearance Certificate from the Block Development Officer.”*

6. As per Clause 8(b), the Original Land Patta and Jamabandi Copy have to be furnished by the tenderer. A perusal of the official records which has been brought today, shows that the Original Land Patta and Jamabandi Copy had not been submitted by the petitioner along with his bid documents.

7. In the case of Afcons Infrastructure Ltd vs Nagpur Metro Rail Corporation Ltd. & Another, reported in (2016) 16 SCC 818, the Supreme Court has held that the owner/employer of a project, having authored the tender document, is the best person to understand and appreciate it's requirements and interpret it's documents. As Clause 8(b) of the Tender Notice required Original Land Patta and Jamabandi Copy to be a part of the tender documents, the non-fulfilment of the said condition by a tenderer would amount to not fulfilling an essential condition of a tender. Thus, without going into the issue of whether the tender of the petitioner fails, in view of the petitioner not having submitted the Original Tax Clearance Certificate or furnishing a non-signed GST Clearance Certificate, this writ petition is disposed of only on the ground that the petitioner had not complied with the essential condition of the Tender Notice provided in Clause 8(b).

8. The above being said, in view of the fact that the petitioner has not complied with Clause 8(b) of the Tender Notice, requiring him to submit the Original Land Patta and Jamabandi Copy, this Court is of the view that the petitioner could not have been selected as the successful tenderer, in pursuant to the Tender Notice dated 24.05.2023 as a mandatory condition had not been fulfilled by the petitioner. Consequently, this Court does not find any ground to interfere with the selection of the respondent no.5.

9. The writ petition is accordingly dismissed.

**JUDGE**

**Comparing Assistant**