

GAHC010196502024



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

Case No. : WP(C)/4810/2024

THE SANKAR MADHAB KRISTI BIKASH KENDRA AND ANR
MILANPUR, NAGAON, P.O- NAGAON, PIN-782001, ASSAM, REP. BY ITS
SECRETARY SARANGA PANI BORAH

2: SARANGA PANI BORAH
S/O- LATE DR. LEELA KANTA BORAH

R/O- MILANPUR

P.S- NAGAON SADAR

PIN-782001
DIST- NAGAON
ASSA

VERSUS

THE STATE OF ASSAM AND 2 ORS
REP. BY THE PRINCIPAL SECRETARY TO THE GOVT. OF ASSAM, WOMEN
AND CHILD DEVELOPMENT DEPARTMENT, DISPUR, GUWAHATI-06

2:THE COMMISSIONER
WOMEN AND CHILD DEVELOPMENT UZANBAZAR
GUWAHATI-01

3:THE DIRECTOR
OF WOMEN AND CHILD DEVELOPMENT UZANBAZAR
GUWAHATI-01
AND CHAIRMAN TECHNICAL COMMITTEE

Advocate for the Petitioner : MS D BORGOHAIN, MS M BORAH,MS. K BORUAH,MS. M
SARMAH,MR. P GOHAIN

Advocate for the Respondent : GA, ASSAM,

**BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA**

ORDER

20.09.2024

Heard Ms. D. Borgohain, learned counsel for the petitioners, who submits that the petitioners submitted their tender/bid in response to the notice inviting expression of interest dated 18.11.2022 (hereinafter referred to as the 'NIT'), for supply of cereals and pulses under the Supplementary Nutrition Programme (SNP) from NGOs/ Public Institutions or Public Bodies/Panchayats/Self Help Groups/Co-operatives.

2. The case of the petitioners is that in terms of Clause C(vi) of the NIT, the bidders were to have past experience in supplying Supplementary Nutrition Food during each financial year of 2019-20, 2020-21 and 2021-22 in any Government Department of Assam. Work order copies along with completion certificates sealed and signed by the competent authority for the same were to be submitted along with the technical bid by the bidders.

3. The petitioners counsel submits that despite work order copies for the years 2020-21 and 2021-22 from government departments having been submitted by the petitioners along with their tender documents, the petitioners' technical bid was rejected on the ground that work order copies for the years 2020-21 and 2021-22 from government departments had not been submitted. The petitioners counsel submits that the original records should be called for, to ascertain as to whether the petitioners had submitted work order copies for the

years 2020-21 and 2021-22. She also submits that as the various documents of the petitioners in the tender documents proved that the petitioners had past experience in supplying Supplementary Nutrition Food for the financial years 2019-20, 2020-21 and 2021-22, the same should have been sufficient for the Government to come to a decision that the petitioners tender documents were in terms of the requirement of the NIT and that the petitioners had the experience required for the supply of the items.

4. Mr. S.S. Roy, learned counsel for all the respondents submits that when the petitioners' technical bid has been disqualified on the ground that the petitioners had not submitted their work order copies for the year 2020-21 and 2021-22, the denial of the same by the petitioners showed that the issue pertains to disputed questions of facts.

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

6. As can be seen from the submissions made by the counsels for the parties and the averments made in the writ petition, the issue pertains to whether the petitioners had submitted their work order copies as required under Clause C(vi) of the NIT, which states as follows:-

“C. Details particulars/ Papers which have to be submitted by the NGOs/ Public institutions or Public bodies/ Panchayats/ Self Help Groups/ Co-Operatives along with the E-Procurement:-

.....

.....

vi. The NGOs/Public Institutions or Public bodies/ Panchayat/Co-Operatives

should have past experience in supplying Supplementary Nutrition Food during each financial year of 2019-20, 2020-21 and 2021-22 in any Govt. department of Assam. Work order copies along with the completion certificates sealed and signed by the competent authority for the same should have to be submitted along with the technical bid by the bidder (s).

7. Clause C speaks of the detailed particulars/papers which have to be submitted by the NGOs/Public Institutions or Public Bodies/Panchayats and Self Help Groups/Co-operatives. As can be seen from the above, the only question is with regard to whether the petitioners had submitted their work order copies along with their tender documents. As the petitioners have not annexed any of the work order copies for the years 2020-2021, 2021-2022 in the writ petition, the counsel for the writ petitioners was asked to furnish a copy of the same to this Court. In pursuance to the above request made by this Court, the following documents have been submitted, which are photocopies and are made a part of the record as Annexure X-22 to X-39.

8. The contents of Annexure X-22 and Annexure X-23, which is also similar to the other Annexure X-24 to Annexure X-39, is reproduced hereinbelow as follows-

“CHILDREN HOME (JORHAT)

Run By: *Sankar Madhab Kristi Bikash Kendra*

Borbheta, Mazgaon, Sadar, Jorhat (Assam)-785008

E-Mail smkbk21@rediffmail.com, Ph. No: 9401008681/8876212951

J.J Act Registration No.: SCPS(JJR)/434/2019-20, Dated Guwahati 13th August (Renewed)

Organisation Registration No: RS/2962 of 1989-90, Act XXI of 1860

Head office: Milanpur, Nagaon, Assam

Ref: CH/Misc./2019-20/314

Date: 07/01/2020

To,

Secretary
Sankar Machab Kristi Bikash Kendra
Milanpur, Nagaon, Assam

Sub: Order for supply supplementary nutrition food during 2019-20 at Children Home Jorhat.

Sir,

I am to inform you that recipe for supply of supplementary nutrition food staff till 31st March 2020 as per Annex -1. This is for your Kind information & take necessary action in this regard.

Yours faithfully

(Sumi Dutta)
Superintendent
Children Home, Jorhat

Superintendent
(Children Home)
Sankar Madhab Kristi Bikash Kendra"

"Break up wise Nutrition food staff for supply (Children of 6 years to 17 years age group, Children Home, Jorhat

Items: Rice, Matar (Yellow peas)

Sl No.	Month	Name of the Home	No. of Beneficiary
1	January 2020	Children Home, Jorhat	25
2	February 2020	Children Home, Jorhat	25
3	March 2020	Children Home, Jorhat	25

”

9. The letter head of the Annexure X-22 to Annexure X-39 shows that the letter has been written by the Superintendent (Children Home), Jorhat, which is run by Sankar Madhab Kisi Bikash Kendra. These documents in no way can be said to be work orders issued by the Government.

10. In the case of ***Afcons Infrastructure Ltd. Vs. Nagpur Metro Rail Corporation Ltd. & Anr.***, reported in ***(2016) 16 SCC 818***, the Supreme Court has held as follows-

“The owner or the employer of a project, having authored the tender documents, is the best person to understand and appreciate its requirements and interpret its documents.”

10. In view of the reasons stated above, this Court does not find any ground to interfere with the rejection of the petitioners’ technical bid, inasmuch as, the petitioners have not complied with Clause C(vi) of the NIT.

11. The writ petition is accordingly dismissed.

JUDGE

Comparing Assistant