

GAHC010204862024



2024:GAU-AS:12560

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

Case No. : WP(C)/5115/2024

NEW EVERGREEN NGO
AN NON GOVERNMENTAL ORGANIZATION,
HAVING ITS REGD OFFICE AT SHANTIPUR, PROFESSOR
COLONY,BHARALUMUKH, GUWAHATI,KAMRUP (M), ASSAM, PIN-781009.
REP BY BIPIL HALOI,
S/O NAGEN HALOI, AGE 42 YRS .

VERSUS

THE GUWAHATI MUNICIPAL CORPORATION AND 2 ORS
GANESH MANDIR, GUWAHATI, PIN-781006 AND REP. BY ITS
COMMISSIONER

2:THE COMMISSIONER
THE GUWAHATI MUNICIPAL CORPORATION
GANESH MANDIR GUWAHATI
PIN-781006

3:GUWAHATI LADIES CLUB (GLC)
A CONTRACTOR HAVING ITS REGD. OFFICE AT BIRUBARI
NIZARAPAR
P.O- GOPINATH NAGAR
P.S- BHANGAGARH
GUWAHATI
KAMRUP (M)
ASSAM
PIN-78100

Advocate for the Petitioner : MR D DEKA, MR N J KUMAR

Advocate for the Respondent : SC, GMC, MR. A R GOGOI (R-3),MR. R SALOI(R-3)

**BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA**

ORDER

Date : 12.12.2024

Heard Mr. D. Deka, learned counsel for the petitioner and Mr. S. Borthakur, learned counsel for the respondent No. 3. Also heard Mr. P. Nayak, learned counsel for the respondent Nos. 1 & 2.

2. The petitioner's grievance is that despite the bid of the respondent No. 3, being 91.80% below the base/estimated price, for "door to door collection and transportation of municipal waste", the respondent Nos. 1 & 2 have not taken the additional performance security from the respondent No. 3, in terms of the notification No. 530624/1 dated 30.07.2024 issued by the Commissioner & Secretary to the Government of Assam, Finance Department.

3. The petitioner's counsel submits that in terms of the above notification dated 30.07.2024, the additional performance security to be furnished by the respondent No. 3, over and above the performance security that is to be furnished, would amount to Rs. 1,48,89,744/-.

4. Mr. P. Nayak, learned counsel for the respondent Nos. 1 & 2 submits that the respondents will recalculate the amount of additional performance security that is to be provided by the respondent No. 3, in terms of the notification dated 30.07.2024. If it is found that the petitioner is to pay some more additional performance security beyond the amount of Rs.8,84,000/-, a demand notice for the same shall be made by the respondent Nos. 1 & 2.

5. Mr. S. Borthakur, learned counsel for the respondent No. 3 submits that in

the event, the respondent Nos. 1 & 2 have made a wrong calculation of the additional performance security to be submitted by the respondent No. 3, in terms of the notification dated 30.07.2024, the respondent No. 3 will pay the same once a demand notice is made by the respondent Nos. 1 & 2.

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

7. The facts of the case is that the petitioner and the respondent No. 3, amongst others, had participated in the tender notice dated 12.07.2024, for carrying out "door to door collection and transportation of municipal waste" in various wards of the Guwahati Municipal Corporation. Though the respondent No. 3 had quoted Rs.4.10 per household per day for cleaning the waste of each household, which was 91.80% below the base/estimated price, the additional performance security that had been asked for by the respondent Nos. 1 & 2 from the respondent No. 3, may not have been done in terms of Clause 37.1 of the Tender Notice, read with the notification dated 30.07.2024.

8. In view of the stand taken by the respondent Nos. 1 & 2 that they will recalculate the amount of additional performance security payable by the respondent No. 3, in terms of the notification dated 30.07.2024 and make a demand for the same, this Court directs the respondent Nos. 1 & 2 to make a recalculation of the additional performance security payable by the respondent No. 3 within a period of one week from the date of receipt of a copy of this order. The respondent No. 3 shall thereafter make payment of the recalculated amount, if the same is made in terms of the notification dated 30.07.2024.

9. It is needles to add that if the calculation already made by the respondent

Nos. 1 & 2, i.e., Rs.8,84,000/- is found to be correct, no further demand notice be made by the respondent Nos. 1 & 2 from the respondent No. 3.

11. The writ petition is accordingly disposed of.

JUDGE

Comparing Assistant