

GAHC010208612023



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

**Case No. : WP(C)/5467/2023**

NAZIMUDDIN AHMED  
S/O- LATE ALAUDDIN AHMED, VILL. 2 NO. KALAIGAON, P.O. AND P.S.  
KALAIGAON, DIST. UDALGURI, ASSAM, PIN- 784525.

VERSUS

THE PRINCIPAL SECRETARY AND 3 ORS  
BODOLAND TERRITORIAL COUNCIL, KOKRAJHAR, PIN- 784252.

2:THE CHAIRMAN MARKET APPROVAL COMMITTEE BTC.

3:THE BLOCK DEVELOPMENT OFFICER  
KALAIGAON DEVELOPMENT BLOCK  
BLOCK- KALAIGAON UDALGURI ASSAM

4:PRADIP DAS  
S/O- LATE THANESWAR DAS  
VILL.- DAKHIN BHOKELI KANDA  
P.S. KALAIGAON P.O. BHOKELI KANDA PIN- 784525

**Advocate for the Petitioner : MR. D SARMAH**

**Advocate for the Respondent : SC, BTC**

**BEFORE**  
**HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA**  
**ORDER**

**Date : 29.01.2024**

Heard Mr. D. Sarma, learned counsel for the petitioner and Mrs. R. B. Bora, learned Standing Counsel, BTC, for the respondent Nos. 1 to 3. No one

appears for the respondent No. 4 even though the order of the Lawazima Court dated 12.12.2023 states that the track consignment report available with the case records revealed that the notice in respect of the respondent No. 4 has been delivered to the addressee on 21.10.2023 and as such, service was complete in respect of the respondent No. 4.

2. By a Tender Notice dated 27.06.2023, the respondent no. 3 invited bids for settlement of a number of markets including a market named 'Balipara Weekly Market' [Wednesday]. In response to the Tender Notice, 4 [four] nos. of bidders submitted their bids including the petitioner and the respondent no. 4. As per the comparative statement prepared by the respondent no. 3, the petitioner had submitted all the requisite documents/certificates, except GST certificate. The bid value of ₹ 1,01,000/- offered by the petitioner was the highest whereas the respondent no. 4 had offered a bid value of ₹ 65,200/-. However, the respondent BTC authorities settled the Market by an order of settlement dated 02.08.2023 in favour of the respondent no. 4 with effect from 01.07.2023, till the issue of a formal settlement order. It is the contention of the petitioner that the Tender Notice itself had indicated that the condition regarding submission of GST certificate was an optional one. It is further contended that as per the CGST Act, 2007, if anyone has an aggregate turnover in a Financial Year which exceeds ₹ 20,00,000/- in terms of taxable supply of goods or services or both, such person shall be liable to be registered under the CGST Act. As the petitioner's annual aggregate turnover in a Financial Year in terms of taxable supply of goods or services or both did not exceed ₹ 20,00,000, he was not required to be registered under the CGST Rules and as such, the GST certificate was not submitted along with the bid. On that ground, the petitioner has challenged the rejection of his bid.

3. Mrs. R. B. Bora, learned Standing Counsel, BTC, submits that in terms of para 6 of the affidavit-in-opposition filed by the respondent No. 3, the petitioner's bid had not been accepted by the authorities as he did not submit his GST clearance certificate along with his bid.
4. I have heard the learned counsels for the parties.
5. The notice inviting tender dated 27.06.2023 provides at Clause 6(IX) that GST clearance certificate would have to be annexed to the bid documents, if necessary.
6. Section 22(1) of the Central Goods and Services Tax Act, 2017 provides that every supplier shall be liable to be registered under the GST Act in the State or Union territory, other than special category States, from where he makes a taxable supply of goods or services or both, if his aggregate turnover in a financial year exceeds twenty lakh rupees.
7. In the present case, there is nothing to show that the petitioner's annual aggregate turnover in a financial year is above twenty lakh rupees. In fact, the petitioner's bid value for the settlement of the market is only Rs. 1,01,000/-. As such, it was not necessary for the petitioner to include the GST clearance certificate in his bid/quotation.
8. In view of the above reasons, the reason for disqualifying the petitioner's bid by the respondent authority is not sustainable. The petitioner's bid/tender would have to be considered by the respondent authorities for settlement of the market along with the other eligible candidates. As his bid is Rs.1,01,000/- compared to the bid of the successful tenderer, i.e., the respondent No. 4, who had submitted a bid amount of Rs. 65,200/-, the settlement of the market would have to be done by the State respondent, which should be in public interest.

Consequently, the selection of the respondent No. 4, vide letter dated 02.08.2023, as successful bidder is hereby set aside. The respondent authorities shall accordingly make a fresh selection of the successful tenderer and issue necessary order/s of settlement of the market for the remaining period of the term. The same should be done within a period of one week from the date of receipt of a certified copy of this order.

9. This writ petition is accordingly disposed of.

**JUDGE**

**Comparing Assistant**