

GAHC010212022024



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

Case No. : WP(C)/5292/2024

M/S SHIVAM TRADERS AND ANR
A PROPRIETORIAL FIRM REGISTERED UNDER ASSAM SHOPS AND
ESTABLISHMENT ACT, HAVING ITS PRINCIPAL PLACE OF BUSINESS AT-
C/O- BIPLAB KUMAR DEY, WARD NO. 6, NEAR POST OFFICE STATION
ROAD, KOKRAJHAR, ASSAM- 783370.
REPRESENTED BY ITS AUTHORISED REPRESENTATIVE RINKI DEY, AGED
ABOUT 48 YEARS.

2: RINKI DEY
AUTHORISED REPRESENTATIVE OF M/S SHIVAM TRADERS

ADDRESS- C/O- BIPLAB KUMAR DEY

161
WARD NO. 6
COLLEGE ROAD

KOKRAJHAR
ASSAM- 783370

VERSUS

THE STATE OF ASSAM AND ANR
THROUGH THE SECRETARY,
DEPARTMENT OF EDUCATION, ASSAM,
DISPUR, GUWAHATI- 781006.

2:AXOM SARBA SIKSHA ABHIJAN MISSION

GUWAHATI
REPRESENTED BY ITS REPORTING OFFICER

KAHILIPARA
GUWAHATI

KAMRUP(M)

ASSAM

PIN- 781019

Advocate for the Petitioner : MR. L TALUKDAR, S HUSSAIN,MR J RAJBONGSHI,MR H TALUKDAR,MS K. KALITA

Advocate for the Respondent : SC, SSA,

BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA

ORDER

21.10.2024

1. Heard Mr. H. Talukdar, learned counsel for the petitioners. Also heard Mr. P. Nayak, learned counsel for the respondent no.2. Mr. R. Mazumdar, learned counsel appears for the respondent no.1.

2. The grievance of the petitioner is that his Technical Bid was disqualified by the respondent authorities on 27.08.2024, as the petitioner had not uploaded "OEM Annual Average Turnover not covered" and had also not submitted documents regarding his "Past Experience". The petitioner's counsel submits that as per the GeM Rules, Part-II Clause 9(i), the bidder's Annual Average Turnover requirement cannot exceed 40% on the estimated bid value and the requirement of a bidder to upload 400% of the bid value as per the NIT was illegal. He also submits that the petitioner submitted the required Annual Average Turnover and experience documents, after he was informed of the disqualification of his Technical Bid on 27.08.2024.

3. Mr. P. Nayak, learned counsel for the respondent no.2 submits that the petitioner should have made a challenge to the requirement of a bidder requiring to submit 400% on the estimated bid value in the OEM Annual Average Turnover required to be submitted by a bidder. However, the petitioner did not make any challenge to the same. He submits that as the petitioner had not submitted the required document as required in the NIT, there was no infirmity in the rejection of the petitioner's Technical Bid. He accordingly submits that the writ petition should be dismissed.

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

5. The respondent no.2 had floated Bid No. GEM/2024/B/5038093 dated 12.06.2024, calling for the supply of 64,945 Dry Erase Writing Boards by way of a two bid system (Technical and Financial), by floating the same on the Government e-Market Place (GeM Platform). The NIT stated that the last date and time for submission of the bid tender was 02.07.2024 at 2 p.m. The petitioner apparently did not submit the OEM Annual Average Turnover or the Past Experience documents required in terms of the NIT, due to which the petitioner's Technical Bid was rejected on 27.08.2024.

6. The bid documents required to be submitted by a bidder in terms of the NIT is reflected in the Bid Document Chart which states as follows :

Document required from seller	Experience Criteria, Bidder Turnover, Certificate (Requested in ATC), OEM Authorization Certificate, OEM Annual Turnover, Additional Doc 1 (Requested in ATC), Compliance of BoQ specification and supporting document * in case any bidder is seeking exemption from
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	Experience/Turnover Criteria, the supporting documents to prove his eligibility for exemption must be uploaded for evaluation by the buyer.
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7. The petitioner submitted the required OEM Annual Average Turnover and Past Experience document only after the rejection of his Technical Bid was communicated to him. As the petitioner's Technical Bid was not complete in terms of the requirement of the NIT, this Court does not find any infirmity in the rejection of the petitioner's Technical Bid.

8. The writ petition is accordingly dismissed.

JUDGE

Comparing Assistant