

GAHC010221752024



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

Case No. : WP(C)/5385/2024

CHAMPAK HAZARIKA AND 9 ORS.
S/O- LATE PADMA NATH HAZARIKA, R/O- BHOTIPAR, DIST. SIVASAGAR,
ASSAM, PIN- 785640.

2: MAYUR BORA
S/O- LATE PABITRA BORA
R/O- 6TH LANE
OLD AMULAPATTY
SIBSAGAR
ASSAM PIN- 785640.

3: SANJIB DAS
S/O- LATE JATIN DAS
R/O- LAKWA NAHAR HABI TEA ESTATE
P.O. LAKWA
SIBASAGAR
ASSAM-785698.

4: AMRIT GOGOI
S/O- RIKHESWAR GOGOI
R/O- BARBARUA MAIDAM
TIPOMIA GAON
SILAKUTI
CHARAIDEO ASSAM

5: RUHINI RAJKHOWA
S/O- LAKHI RAJKHOWA
R/O- OLD AMULAPATTY
SIBSAGAR ASSAM-785640.

6: DIGANTA GOGOI
S/O- JUGA CH. GOGOI
TIPOMIA GAON
P.O. LAKWA SIBSAGAR-785698.

7: HITESH DUTTA
S/O- RUPESWAR DUTTA
R/O- BOKATA
KUKURACHOWA GAON
P.O. NANGALAMORA
SIVSAGAR
ASSAM-785674.

8: SAJIBLAL BARUAH
S/O- RAJIB LAL BARUAH
R/O- WARD NO. 10
MELACHAKAR
SIBSAGAR
ASSAM
PIN- 785640.

9: DURLAV GOGOI
S/O- SONDHAR GOGOI
R/O- KATHPARA
BANMUKH
SIBSAGAR
ASSAM

10: ARUP ABHOIPURIA
S/O- TRAILUKYA ABHOIPURIA
R/O- PATSAKU
BOKOTA KOHAR GAON
SIBSAGAR
ASSA

VERSUS

OIL AND NATURAL GAS CORPORATION LTD. AND 3 ORS
A GOVT. OF INDIA ENTERPRISE DULY INCORPORATED UNDER THE
COMPANIES ACT, 1956 HAVING ITS REGISTERED OFFICE AT PANDIT DEEN
DAYAL UPADHAYAYA URJA BHAVAN, 5, NELSON MANDELA MARG,
VASANTA KUNJ, NEW DELHI-110070 AND REGIONAL OFFICE AT NAZIRA
IN THE DISTRICT OF SIVASAGAR, ASSAM, REPRESENTED BY THE
EXECUTIVE DIRECTOR, EASTERN REGION, ONGCL, NAZIRA, ASSAM ,PIN-
785684.

2:THE EXECUTIVE DIRECTOR
ASSAM ASSET
NAZIRA
SIVASAGAR
ASSAM

3:THE SUPERINTENDING ENGINEER CPD-CCLG
DELHI
OIL AND NATURAL GAS CORPORATION LIMITED
SCOPE MINAR
LAXMI NAGAR
NEW DELHI.

4:THE HEAD ENGINEERING SERVICES
OIL AND NATURAL GAS CORPORATION LIMITED
ASSAM ASSET
NAZIRA
SIVASAGAR
ASSA

Advocate for the Petitioner : MR. A K GUPTA, MR. R S MISHRA,MR. R K MAHANTA

Advocate for the Respondent : MR. B K DAS, FOR CAVEATOR

BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA

ORDER

Date : 23.10.2024

Heard Mr. R. S. Mishra, learned counsel for the petitioners and Mr. D. Saikia, learned Senior counsel for the ONGC.

2. Mr. R. S. Mishra, learned counsel for the petitioners submits that the ONGC had floated tender No. ZV9SC24007 for a three year rate contract, for construction of drill sides and approach roads in operational areas of Assam Asset for the period 2024-2027 in a single bid system at an estimated cost of Rs. 311,70,10,154/- for Sub-Head-I and for Rs.43,63,75,602/- for Sub-Head-II.

3. The petitioners participated in both the Sub-Heads I & II. As more than a hundred bidders had all submitted bids quoting the same rates, the respondent authorities decided to select the successful tenderers by way of draw of lots.

However, the draw of lots was not conducted as per the prevailing practice, i.e. by using the numbered balls that are used while playing tombola (housie), which are rotated in the circular steel frame used, while playing tombola (housie), they used slips of paper instead of the numbered balls.

4. The petitioners' counsel submits that the petitioners were in Sivasagar, Assam and the draw of lots was conducted in Delhi, where the petitioners were not present. He submits that the draw of lots was not done as per the usual practice, i.e., by using the tombola (housie) numbered balls that were rotated in a steel frame. The same had been done by using paper slips, which were numbered and has caused prejudice to the petitioners. He submits that when there is a prevailing practice for conducting draw of lots by using the tombola (housie) numbered balls, the respondent authorities could not have deviated from the prevailing practice by using paper slips. He accordingly prays that the selection of the successful tenderers by way of draw of lots held on 04.10.2024 should be set aside.

5. Mr. D. Saikia, learned Senior counsel appearing on behalf of the ONGC submits that there is no denial with the fact that the prevailing system for selection of successful candidates is done by way of draw of lots, by using tombola (housie) numbered balls. However, in the present case, 50 successful tenderers were to be selected under Sub-Head-I and another 50 successful tenderers were to be selected under Sub-Head-II. As there were 149 tenderers in respect of Sub-Head-I and 289 tenderers in respect of Sub-Head-II, thereby totalling 431 tenderers, it was not possible to use the tombola (housie) balls, which would have allowed for conducting draw of lots, if the number of candidates was 100 or less.

6. Mr. D. Saikia, learned Senior counsel further submits that in the present case, a slip containing a six digit unique identification number and the concerned work was written in respect of each tenderer and the same was put in separate identical envelopes. Accordingly, 431 slips were put in 431 envelopes and the envelopes did not contain any writing or identical mark. Prior to the draw of lots being held, the petitioners were all informed by way of e-mail, sent one week earlier, to the holding of the draw of lots, informing them the venue, date and time the draw of lots were to be held. They were also asked to participate in the proceedings during the draw of lots and the petitioners were represented by three representatives during the draw of lots held. Further, the tenderers were also allowed to see the proceedings, i.e. draw of lots by way of zoom link. He submits that in terms of the draw of lots held by spinning the envelopes in an acrylic box, 50 successful candidates were selected under Sub-Head-I and 50 successful candidates were selected under Sub-Head-II. Further, even after selection of 100 candidates for Sub-Heads I & II together, all the envelopes were taken up one by one and opened, so that none of the tenderers could later say that their numbers/names were not included in any of the envelopes that had been put in the acrylic box, from which the draw of lots had been held. He accordingly submits that in view of the reasons stated above, the writ petition should be dismissed.

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

8. The petitioners' counsel has not denied the fact that there were more than 100 tenderers, whose selection was decided by way of draw of lots, in the manner submitted by the counsel for the ONGC.

9. On considering the submission made by the learned counsel for the ONGC, which has not been disputed, this Court is of the view that a fair and transparent method of selection has been held by the ONGC in selecting the successful candidates. Further, the selected tenderers have not been made parties in the writ petition. Accordingly, this Court does not find any ground to interfere with the selection of the successful candidates, in terms of the draw of lots held pursuant to the tender No. ZV9SC24007.

10. The writ petition is accordingly disposed of.

JUDGE

Comparing Assistant