

GAHC010268992023



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

Case No. : WP(C)/6919/2023

TAJ UDDIN MAJUMDER
S/O- URFIZ ALI MAZUMDER, R/O- VILLAGE AND P.O. LATHIMARA, P.S.
KALIGORA, DISTRICT- CACHAR, ASSAM, PIN- 788805

VERSUS

THE STATE OF ASSAM AND 3 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM, TRANSPORT DEPARTMENT, DISPUR, GUWAHATI-06

2:THE DIRECTOR
INLAND WATER TRANSPORT
ASSAM
ULUBARI
GUWAHATI- 781007
KAMRUP (M)

3:EXECUTIVE ENGINEER
INLAND WATER TRANSPORT DIVISION
CHANDMARI
T.V STATION ROAD
TARAPUR
SILCHAR
PIN- 788003
DISTRICT- CACHAR

4:HARIMOHAN SINGHA
S/O- LATE CHAUBAN SINGHA
R/O- DURGA NAGAR
PART-II
P.S. UDHARBAND
P.O. GOSAIPUR

DISTRICT- CACHAR
ASSAM
PIN- 78803

Advocate for the Petitioner : MR. P MAHANTA

Advocate for the Respondent : SC, TRANSPORT

BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA

ORDER

14.03.2024

1. Heard Mr. P. Mahanta, learned counsel for the petitioner. Also heard Ms. S. Bora, learned counsel appearing on behalf of Ms. M.D. Borah, learned counsel for the Transport Department. No one appears on behalf of the respondent no.4. The affidavit of service filed by the petitioner on 15.12.2023 states that as the respondent no.4 was not in his house at the time of service of *dasti* notice, the notice was served upon the wife of the respondent no.4 on 13.12.2023.

2. The petitioner's case is that pursuant to an NIT dated 04.11.2012 issued by the respondent no.3, the bids of the petitioner and the respondent no.4 were found to be technically responsive. Though the bid amount of the respondent no.4 was higher than that of the petitioner and the settlement of the Lathimara Ferry Service had been made with the respondent no.4, the respondent no.4 did not possess the actual area of the land mentioned in the land documents submitted by the respondent no.4 before the tendering authority.

3. The petitioner's counsel submits that the respondent no.4 had submitted

land documents showing that his land covered an area of 5 Bigha 15 Kathas 12 Chatak, though in reality it was only 4 Bighas 11 Kathas 8 Chatak, inasmuch as, 1 Bigha 4 Kathas 4 Chatak had been sold by the respondent no.4, prior to submitting his tender document in pursuant to the NIT dated 04.11.2012. The petitioner's counsel submits that as the respondent no.4 had not submitted correct documents before the tendering authority, the settlement of the Ferry Service with the respondent no.4 should be set aside. He also submits that the period of settlement of the Ferry Service will expire on 31.03.2024.

4 Ms. S. Bora, learned counsel for the Transport Department, on the other hand submits that the respondent no.4 had quoted Rs.3,94,565/-, while the writ petitioner had quoted an amount of Rs.2,55,000/-. She submits that a complaint had been submitted by the petitioner against the respondent no.4 and the Deputy Commissioner, Cachar had submitted a report on the land document of the respondent no.4, which is to the effect that the respondent no.4 had sold land measuring 1 Bigha 4 Kathas 4 Chataks out of his total land measuring 4 Bighas 17 Kathas. However, the remaining land covered his quoted bid.

5. On considering the submissions made by the learned counsels for the parties and perusing the pleadings in the record, it appears that though the respondent no.4 had sold a part of his land holdings, he had not corrected his land documents. However, as stated by the respondent no.2 in his affidavit-in-opposition, the remaining area of land in the possession of the respondent no.4 covers the bid amount submitted by the respondent no.4. Further, keeping in view the fact that the settlement of the Ferry Service is to expire on 31.03.2024, this Court is of the view that it would only be in academic interest to enter into

the merits of the case. Accordingly, in view of fact that the submission of the incorrect land document by the respondent no.4 has not caused any prejudice to the public exchequer or to the public interest, this Court is not inclined to exercise it's discretionary power at his stage.

6. The writ petition is accordingly dismissed. As this Court has been informed that a fresh tender had been issued for settlement of the Ferry Service, the settlement of the Ferry Service should be made applicable from the next season, i.e. 01.04.2024, in terms of the fresh NIT.

JUDGE

Comparing Assistant