

GAHC010283592023



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

Case No. : I.A.(Civil)/3792/2023

M/S OMEGA SECURITY SOLUTIONS,
FATICK CHANDRA ROAD, LATASIL, UZANBAZAR, GUWAHATI-781001.

VERSUS

THE UNION OF INDIA AND 4 ORS
REPRESENTED BY THE SECRETARY, MINISTRY OF EDUCATION,
DEPARTMENT OF HIGHER EDUCATION, GOVERNMENT OF INDIA, NEW
DELHI-110001.

2:THE CENTRAL INSTITUTE OF TECHNOLOGY
DEEMED TO BE UNIVERSITY
MINISTRY OF EDUCATION
GOVERNMENT OF INDIA
REPRESENTED BY THE DIRECTOR
KOKRAJHAR
BTR
ASSAM
PIN- 783370.

3:THE DIRECTOR

THE CENTRAL INSTITUTE OF TECHNOLOGY
DEEMED TO BE UNIVERSITY
MINISTRY OF EDUCATION
GOVERNMENT OF INDIA
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4:THE REGISTRAR

THE CENTRAL INSTITUTE OF TECHNOLOGY
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GOVERNMENT OF INDIA
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KOKRAJHAR
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PIN- 783370.

5:M/S BODOLAND SECURITY SERVICES

THROUGH ITS AUTHORIZED REPRESENTATIVE SRI BIRBAL KARJEE
HAVING OFFICE AT KAJALGAON
DIST. CHIRANG
PIN- 783385
BODOLAND TERRITORIAL COUNCIL
ASSA

Advocate for the Petitioner : MR. S BORTHAKUR

Advocate for the Respondent : DY.S.G.I.

Linked Case : WP(C)/5427/2023

M/S BODOLAND SECURITY SERVICES
THROUGH ITS AUTHORIZED REPRESENTATIVE SRI BIRBAL KARJEE
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FATICK CHANDRA ROAD
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UZANBAZAR
GUWAHATI-781001.

Advocate for : MR. U K NAIR
Advocate for : DY.S.G.I. appearing for THE UNION OF INDIA AND 4 ORS

**BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA**

ORDER

08.04.2024

Heard Mr. S. Dey, learned counsel for the applicant and also heard Mrs. A. Gayan, learned CGC for opposite party nos.1 to 4. Mr. A. Boro, learned counsel for the opposite party no.5.

2. This interlocutory application has been filed under Article 226(3) of the Constitution of India for vacating the ex parte interim order dated 18.09.2023 passed by this Court in the connected WP(C)/5427/2023.

3. The applicant has projected that he is the tenderer in the NIT issued for "Providing of Housekeeping Service for CIT, Kokrajhar" the process of which was initiated vide NIT dated 26.06.2023. However, in view of the interim order of this Court, the said tender process has not been finalized.

4. The learned counsel for the opposite party no.5 has submitted that the case of the opposite party no.5 in the writ petition is that in the online format of submitting bids, there was no row for quoting GST on service charge. Accordingly, it is submitted that the value of GST could not be provided and it is on the said ground that the opposite party no.5 was held to be technically not responsive.

5. It has been further submitted that it is the case of the applicant that the Item Rate quoted in the bill of Quantities (BoQ in short) was Rs.2,23,84,836/- (Rupees Two crore twenty three lakh eighty four thousand eight hundred thirty six only) whereas in the affidavit-in-opposition filed by the opposite party no.5,

he has annexed the Tender Committee Report and Recommendation regarding evaluation report of financial bid, where in the applicant has been ranked as L1 bidder with the final contract amount of Rs.2,24,77,396/- (Rupees Two crore twenty four lakh seventy seven thousand three hundred ninety six only) and accordingly, the learned counsel for the opposite party no.5 has questioned the rates quoted by the applicant in the BoQ and its final acceptance by the Tender Evaluation Committee of opposite party no.2.

6. The learned CGC prays for some time to obtain instruction for explanation to the difference in the rates which is occurred on the comparison of the rates quoted by the applicant in the BoQ as well as in the Tender Committee Report dated 28.08.2023.

7. In so far as the opposite party no.5 (writ petitioner) is concerned, the Court finds that the said opposite party no.5 was held to be technically qualified but at the final evaluation of the financial bid, the petitioner was disqualified on account of non quoting of GST and service charge.

8. In this connection, we find from the documents annexed to the interlocutory application, being Annexure-3, which is the Item Rate BoQ of the applicant, that there are several rows in the said Item Rate BoQ containing various amounts of rate quoted on account of GST. As many as 9 (nine) rows containing various figures of GST components of the rate quoted. From the Evaluation Report on financial bid dated 28.08.2023, it is noted that there were 4 (four) qualifying bidders at the time of the opening of the financial bid. The applicant was L1 bidder, two other bidders have identical rate and were considered to L2 and fourth bidder was adjudged as L3 bidder, whereas the 2 bidders were disqualified during financial assessment of the tenders out of

which the opposite party no.5 had not quoted GST on service charge whereas the other bidder was disqualified as the GST amount did not match for driver category.

9. Thus, it appears that out of 6 (six) bidders, 5 (five) had quoted GST amount.

10. In so far as discrepancy in the item rate BoQ and the report of the Tender Evaluation Committee dated 28.08.2023 is concerned, it is noted that while the Annexure-3 to this application is Item Rate BoQ, but Annexure-1 to the affidavit-in-opposition filed by the opposite party no.5 is the Tender Committee Report dated 28.08.2023, where the amount of Rs.2,24,77,396/- is under the column final contract amount. Therefore, discrepancy in the financial quantum which appears in the Tender Committee Evaluation Report is not found to be material, the two figures of amount are representing two different purposes.

11. On the ground that the applicant has demonstrated that he had quoted GST rates, which was not quoted by the opposite party no.5, the Court finds that this is an appropriate case for vacating the interim order dated 18.09.2023, passed by this Court in the connected WP(C)/5427/2023.

12. Hence, this interlocutory application stands allowed. The interim order passed on 18.09.2020 in the connected WP(C) No.5427/2023 is vacated.

JUDGE

Comparing Assistant