



**Serial No. 47**  
**Regular List**

**HIGH COURT OF MEGHALAYA**  
**AT SHILLONG**

WP(C). No. 323 of 2024

Date of Decision: 16.07.2025

Smti. Ilinda Marbaniang Ripnar.

...Petitioner

-Versus-

1. North Eastern Hill University, Shillong,  
represented by its Registrar,  
Umshing, Mawkynroh, Shillong,  
East Khasi Hills District,  
Meghalaya – 793002.

...Respondent

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**Coram:**

**Hon'ble Mr. Justice H.S.Thangkhiew, Judge**

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**Appearance:**

For the Petitioner/Applicant(s) : Mr. N.Khera, Adv.  
Mr. T.Marngar, Adv.

For the Respondent(s) : Mr. S.Sen, SC with  
Ms. E.Blah, Adv.

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|-----|--------------------------------------------------------|--------|
| i)  | Whether approved for reporting in<br>Law journals etc: | Yes/No |
| ii) | Whether approved for publication<br>in press:          | Yes/No |
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**JUDGMENT AND ORDER (ORAL)**

1. The brief facts are that the respondent vide an NIT dated 29-06-2022 had invited bids for auction / sale of 12 numbers of old vehicles. The petitioner emerged as the highest bidder for 1 vehicle and was the second highest bidder for a total of 7 other vehicles listed in the tender. The petitioner was then invited to attend a negotiation Committee meeting on 30-09-2022, wherein she was informed that as the highest bidder for the 7 other vehicles no longer wished to take part in the tender process, the petitioner being the second highest bidder was therefore offered the opportunity to acquire the said 7 vehicles at the rate set by the respondent. Thereafter, on being unable to meet the rate given by the respondent, the petitioner agreed to an increase of ₹ 10,000/- per vehicle which was agreed upon by the concerned respondent. However, as nothing transpired pursuant to the said negotiation, the petitioner sent multiple reminders to the respondent and it was only after several months, when by letter dated 19-01-2024, she was informed that due to the withdrawal of the initial highest bidder, and the Committee formed to negotiate with the petitioner, though had negotiated the rate, the Central Purchase Committee found the offer, after review, unsatisfactory. Being aggrieved with the rejection of the negotiated bid, even though the tender condition at Clause No. 3, had



prescribed that on the failure of the selected tenderer to pay the entire cost of vehicles, the offer would be given to the next highest bidder, the petitioner is before this Court.

2. Mr. N.Khera, learned counsel for the petitioner has submitted that as per the terms of the tender, the petitioner being the next highest bidder for the 7 other vehicles should have been considered the successful bidder as the rate offered by the petitioner at ₹ 10,000/- more than the quoted rate had been agreed upon by the Tender Negotiation Committee. He further submits that the rejection on the ground that the offer of the petitioner was below the base rate or reserved price is baseless, inasmuch as, no base price had been mentioned in the tender document. Further, it is contended that for the vehicle being No. ML-05A-7870 (Mini truck) wherein the petitioner was the highest bidder, the respondents immediately on the payment of the quoted amount of ₹ 1,05,600/- had issued lifting orders dated 06-02-2023, authorising the petitioner to take possession of the vehicle. The very fact that the petitioner was permitted to take possession, it is argued goes to show that there was no base price fixed, or that the same was a consideration for the respondent. He therefore submits, that even after due negotiation, the offer of the petitioner being arbitrarily rejected citing the reason that the same was below the base price and that it was on the directions of the Central Purchase Committee is illegal. It is finally submitted that the respondent



having not adhered to the conditions contained in the tender document, their action in rejecting the petitioner's bid is illegal and arbitrary.

3. Mr. S.Sen, learned counsel for the respondent University has submitted that the decision to reject the bid of the petitioner was decided by the Central Purchase Committee, even though an increased offer had been made, was that the same was still below the rate fixed by the Transport Department, Government of Meghalaya. It is then further submitted that on the failure of the highest bidder to lift the vehicles due to financial issues, the respondent considering the quoted rate of the petitioner compared to the base rate of the Transport Department, had invited the petitioner for negotiation through its Sub-Committee on 10-03-2023, and though the Sub-Committee had recommended the petitioner on the enhanced price, the same still being below the base rate, was not accepted by the Central Purchase Committee in its meeting held on 01-06-2023.

4. Mr. S.Sen, learned counsel on the powers of the Central Purchase Committee, has submitted that this Committee oversees the entire tender process for purchases in the respondent University and that for all practical purposes is the sole decision making body in such matters. The learned counsel in this regard, has referred to the Minutes of the meeting of the Central Purchase Committee held on 24-08-2022, wherein the tenders were



opened, Minutes of meeting held on 01-09-2022, wherein a 3 Member Sub-Committee was constituted to negotiate the rates with the second highest bidder, which were to be placed for approval in the next meeting, and Minutes of the meeting dated 02-12-2022, wherein the next highest bidder was to be offered at the rate fixed by the Transport Department, Government of Meghalaya. He contends that as the rates offered by the petitioner not meeting the requirements as decided by the Central Purchase Committee, her bid was not considered feasible. The learned counsel then concludes his submissions by maintaining that due process has been followed and the rejection of the petitioner's bid and decision taken in the meeting of the Central Purchase Committee dated 01-06-2023, for re-tendering the vehicles, cannot be said to be arbitrary or illegal, but was done on the basis of a proper decision making process.

5. Heard learned counsels for the parties.

6. At the outset, this Court considers it necessary to refer to the tender dated 29-06-2022, floated by the respondent whereby e-tenders had been invited from eligible tenderers. In Section I of the tender document which contains the clauses for invitation for bids and also Section V wherein, the details of the vehicles to be auctioned have been described, though elaborate details and requirements have been set forth, no reserved or base price has been mentioned at any place in the entire document. The terms and



conditions relevant for the purposes of the case however, have been given in Section IV of the tender document in 3 clauses namely, clauses 1, 2 and 3 and are reproduced herein below:

***“SECTION IV  
TERMS AND CONDITIONS***

- 1. The Vehicles will be sold out on “As is where is basis”. It will be available for display outside the premises of NEHU, Umshing Mawkynroh Shillong 793022, Meghalaya for inspection between 11.00 AM to 4.0 0PM on any working day before submitting the tender.*
- 2. Interested Bidders may inspect the vehicles in the Permanent Campus of the University during office hours.*
- 3. The selected Tenderer should arrange to pay the entire cost of the vehicle(s) within 10(ten) days from the date of issue of lifting order, failing which he/she will forfeit the security deposit and the offer will be given to the next highest bidder.”*

7. Clause 3 of the terms and conditions it is noted, provides that on the failure of the highest bidder or selected tenderer to pay the entire cost, the offer will be given to the next highest bidder. In this context therefore, the petitioner with regard to the 7 other vehicles where she was the next highest bidder had been invited for negotiations. As noted earlier, the petitioner in her meeting with the Sub-Committee constituted by the Central Purchase Committee, had offered an enhanced rate of ₹ 10,000/- over the quoted rate which was agreed to by the Sub-Committee and put up for approval before the Central Purchase Committee. From a detailed perusal of the Minutes of



the meetings dated 24-08-2022, 01-09-2022, 02-12-2022 and 01-06-2023, the entire sequence of the decision making process has been revealed, which for the sake of convenience, relevant extracts thereof relating to the tender is reproduced herein below:

***“MINUTES OF THE CENTRAL PURCHASE COMMITTEE HELD ON 24<sup>TH</sup> AUGUST, 2022, AT 2PM IN THE VC CONFERENCE ROOM, ADMINISTRATIVE BUILDING, NORTH-EASTERN HILL UNIVERSITY, SHILLONG.***

***Item No. 2: Opening of e-tender for the auction of the old and condemned NEHU vehicles.***

- 1. The E-tender for Auction/Sale of old Vehicles Tender No. F122/Admnl/94Voll/635 published on the 29.06.2022 was opened in the presence of the CPC members on the 24.08.22.*
- 2. The Online Technical Bid was opened and the following is the summary of the bidders who qualified/not qualified for the financial bid:*

| <b><i>Sl. No.</i></b> | <b><i>Bidder</i></b> | <b><i>Submitted Date</i></b> | <b><i>Token</i></b> | <b><i>Status</i></b> | <b><i>Remarks</i></b>                                                       |
|-----------------------|----------------------|------------------------------|---------------------|----------------------|-----------------------------------------------------------------------------|
| 1.                    | Sangliana Myllemngap | 19-07-2022<br>20:31          | 43920220719203100   | Disqualified         | DOCUMENTS ASKED FOR IN SECTION VI OF THE TENDER NOT SUBMITTED AND UPLOADED. |
| 2.                    | M/s.J.S Enterprise   | 27-07-2022<br>17:15          | 28120220727171500   | Disqualified         | DOCUMENTS ASKED FOR IN SECTION VI OF THE TENDER NOT SUBMITTED AND UPLOADED. |



|    |                                 |                     |                   |                            |                                                                                    |
|----|---------------------------------|---------------------|-------------------|----------------------------|------------------------------------------------------------------------------------|
| 3. | <i>Ilinda Marbaniang Ripnar</i> | 29-07-2022<br>10:49 | 44020220729104900 | <i>In the competition.</i> |                                                                                    |
| 4. | <i>M/s. V.Khongsit</i>          | 19-07-2022<br>18:25 | 44320220719182500 | <i>Disqualified</i>        | <i>NO PHYSICAL EMD RECEIVED AS PER TENDER.</i>                                     |
| 5. | <i>Riwaniung Myllemngap</i>     | 19-07-2022<br>19:08 | 44120220719190800 | <i>In the competition</i>  |                                                                                    |
| 6. | <i>Sanjib Traders</i>           | 19-07-2022<br>17:01 | 44420220719170100 | <i>In the competition</i>  |                                                                                    |
| 7. | <i>M.L.Consortium</i>           | 28-07-2022<br>15:07 | 29720220728150700 | <i>In the competition</i>  |                                                                                    |
| 8. | <i>Betar Syiem</i>              | 20-07-2022<br>10:16 | 5520220720101620  | <i>Disqualified</i>        | <i>NO PHYSICAL EMD RECEIVED AS PER TENDER.</i>                                     |
| 9. | <i>S.G.Pathaw</i>               | 25-07-2022<br>17:19 | 43720220725171900 | <i>Disqualified</i>        | <i>DOCUMENTS ASKED FOR IN SECTION VI OF THE TENDER NOT SUBMITTED AND UPLOADED.</i> |

3. *Four bidders qualified for the Financial Bid which was opened online in the presence of the CPC members. The comparative statement may be seen at Annexure A.*
4. *The members also resolved to negotiate with the highest bidders in the next CPC meeting for the prices they bid less than the estimated price arrived at by the Transport Dept, Government of Meghalaya on 27<sup>th</sup> Oct 2020 {as per GFR 2017, Rule 219, Clause ii(d)}.*
5. *It is to be noted from price bid by all the highest bidders for each item the total amount is Rs. 18,70,102/- and the Total Price Estimated by the Transport Department,*



*Government of Meghalaya is Rs. 18,40,000/- (a gain of Rs. 30,102/-) ”.*

***“MINUTES OF THE CENTRAL PURCHASE COMMITTEE HELD ON 1<sup>st</sup> SEPTEMBER, 2022, AT 3PM IN THE VC CONFERENCE ROOM, ADMINISTRATIVE BUILDING, NORTH-EASTERN HILL UNIVERSITY, SHILLONG.***

***Item No. 2: e-tender for the auction of the old and condemned NEHU vehicles.***

*As per the resolution of the last CPC held on 24<sup>th</sup> August, 2022, negotiation with the highest bidders for the prices they bid less than the estimated price arrived at by the Transport Department, Government of Meghalaya on 27<sup>th</sup> Oct 2020, was approved. However, the bidders were not invited for the negotiations in the present CPC meeting due to time constraints. Accordingly, the matter was discussed and it was resolved that a three member sub-committee for carrying out the negotiations be constituted with the following members: Prof. N.Saha, Mr. N.I.Barbhuyan and Mr. I.Lyngdoh. Thereafter, the outcome of the negotiations maybe placed in the next CPC meeting for approval.”*

***“MINUTES OF THE CENTRAL PURCHASE COMMITTEE HELD ON 02 DECEMBER, 2022, AT 2.30 PM IN THE VC CONFERENCE ROOM, ADMINISTRATIVE BUILDING, NORTH-EASTERN HILL UNIVERSITY, SHILLONG.***

***Item No. 2: Follow-up action on the e-tender for auction of old and condemned NEHU vehicles.***

- A. A duly constituted three member sub-committee for carrying out the negotiations with the highest bidders submitted the report and the following recommendations was accepted by the CPC.*
- i. That due to the withdrawal of the highest bidder M/s Sanjib Enterprise the next highest bidder will*



*be offered at the rate the Transport Department, Government of Meghalaya had accessed the said vehicles as per GFR. The CPC also resolved that the same Sub-Committee will also negotiate with the next highest bidder/s in view of the bid withdrawal of M/s Sanjib Traders for the said vehicles.*

- ii. The final rates arrived at during negotiations for a) ILINDA MARBANIANG RIPNAR for 60 (Mini Truck) ML-05-A-7870 is Rs. 1,05,600.0/- b) RIWANIUNG MYLLIEMNGAP for Armada ML-05-B-8777 is Rs. 75,500/- and for Ambassador ML-05-C-7791 is Rs. 35,500/- and c) MELINDA LANGRIN for Tata Sumo ML-05-C-0273 is Rs. 47,200/-.*

*B. The EMD of M/s Sanjib Traders will be forfeited because of the withdrawal.”*

**“MINUTES OF THE CENTRAL PURCHASE COMMITTEE HELD ON 1<sup>ST</sup> JUNE, 2023 AT 2.30 P.M. IN THE VC CONFERENCE ROOM, ADMINISTRATIVE BUILDING, NORTH-EASTERN HILL UNIVERSITY, SHILLONG.**

**Item No. 4:** *Auction taken on the minutes of CPC meeting of 02.12.2022.*

- i) Vide letter F.No.1-22-4/ADMN-II/94/Vol-1/985 dated 21.03.2023, the Assistant Registrar, Administration, NEHU submitted the minutes of the sub-committee meeting of 10.03.2023 for negotiations with the 2<sup>nd</sup> highest bidder in connection with the financial bids of the tender for auction of old NEHU vehicles on account of the withdrawal of offer from the 1<sup>st</sup> highest bidder. After a thorough discussion, it was resolved that the quoted items be retendered with a higher EMD as the prices offered by the 2<sup>nd</sup> highest bidder are very low even after negotiations in comparison with the prices of the 1<sup>st</sup> Bidder and the Transport*



*Department, Government of Meghalaya estimated price arrived at on 3.10.2020.”*

8. It appears that the entire decision to reject the offer of the writ petitioner after negotiations was solely on the basis that the offer did not meet the rate given by the Transport Department, Government of Meghalaya. In this regard, it is important to first note that the base price or reserved price or for that matter, the rate given by the Transport Department, Government of Meghalaya does not appear anywhere in the tender document which would have enabled the bidders to be informed about the expected price. This aspect has been completely overlooked by the respondent while rejecting the bid of the petitioner, inasmuch as, the terms and conditions as given in a tender document governs the tender process with regard to eligibility and also other criteria that are to be fulfilled by bidders. In the instant case, what has been resorted to is the imposition of a non-existent condition or tender clause in demanding that the rate quoted should be not less than the rate given by the Transport Department, Government of Meghalaya. Curiously, though this stand has been sought to be justified by the respondent, the fact that the petitioner was the highest bidder for Vehicle No. ML-05A-7870 (Mini truck) and given possession at the quoted rate remains unexplained. A tendering authority is not expected to have two standards in the same tendering process as is apparent in the



instant case. The inconsistencies and lapses as discussed above have resulted in the respondent changing the rules of the game after the same has commenced.

9. In the result therefore, in the considered view of this Court, the rejection of the petitioner's bid being based on a flawed decision making process and against the pronouncements of settled law, the rejection of the bid of the petitioner is deemed to be unjustifiable, arbitrary and as such, the same is interfered with. The impugned communications accordingly are set aside and the respondent is directed to take corrective measures expeditiously.

10. The writ petition is accordingly allowed and disposed of.

**Judge**