GAHC010122952026

2026:GAU-AS:16340

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

Case No. : WP(C)/3214/2026

BRAHMAPUTRA VALLEY MIN PALAN SAMABAI SAMITI LIMITED
HAVING ITS REGISTERED OFFICE AT VILL.- BAMGAON, P.O. AND P.S.- DHEMAJI DIST- DHEMAJI, ASSAM REPRESENTED BY ITS PRESIDENT SRI HALADHAR DAS, AGE-57 YRS S/O SRI PADMA KANTA DAS, R/O VILL- DHEMAJI, BAMGAON P.O.- GOHAINGAON P.S.- DHEMAJI DIST- DHEMAJI, ASSAM, PIN-787057

VERSUS

THE STATE OF ASSAM AND 5 ORS.
REPRESENTED BY THE SECRETARY TO THE GOVERNMENT OF ASSAM
DEPARTMENT OF FISHERIES DISPUR, GUWAHATI- 781006

2:THE COMMISSIONER AND SECRETARY TO THE GOVERNMENT OF ASSAM
DEPARTMENT OF FISHERIES
DISPUR
GUWAHATI-781006

3:THE ADDITIONAL CHIEF SECRETARY

GOVT. OF ASSAM
FISHERY DEPARTMENT
DISPUR
GUWAHATI-781006

4:THE DISTRICT COMMISSIONER

DIBRUGARH
PIN-786001

5:THE ADDITIONAL DISTRICT COMMISISONER (FISHERIES)

DIBRUGARH
PIN-786001

6:DISTRICT FISHERY DEVELOPMENT OFFICER

DIBRUGARH
PIN-78600

Advocate for the Petitioner : MR. N K KALITA,

Advocate for the Respondent : GA, ASSAM, SC, FISHERY

BEFORE

HON'BLE MR. JUSTICE ARUN DEV CHOUDHURY

ORDER

06-11-2026

1. Heard Mr. N. K. Kalita, learned counsel for the petitioner. Also heard Ms. S.Chutia, learned Standing counsel, Fisheries Department for the respondent Nos. 1, 2, 3 & 6 and Mr. S.R.Baruah, learned State counsel for the respondent Nos. 4 & 5.

2. The petitioner is aggrieved by an order dated 02.05.2026, whereby the process of fresh tender was initiated for the settlement of "**Dibru-Brahmaputra Meen Mahal**" under the district of Dibrugarh for a period of 7 years.

3. The facts are in a narrow compass:

4. The Additional District Commissioner (Fisheries), Dibrugarh issued a Notice Inviting Tender (NIT) on 22.08.2025 for the settlement of "Dibru-Brahmaputra Meen Mahal," a 60% fishery under the district of Dibrugarh for a period of 7 years. The petitioner along with other bidders participated in the tender process. The petitioner was found as the highest bidder with a bid price of Rs. 18,00,000/- per year for a period of 7 years. The prices offered by the other bidders were below the minimum

threshold revenue fixed by the Government. Accordingly, the petitioner was declared as the sole eligible bidder.

5. The petitioner, while not getting any settlement order pursuant to the aforenoted tender process, preferred a writ petition before this Court, registered as WP(C) No. 1782/2026 with a prayer before this Court to direct the respondents to conclude the tender process. This Court, under its order dated 07.04.2026, disposed of the said writ petition and directed the respondent to bring the tender process initiated by the tender notice dated 22.08.2025 to its logical conclusion as expeditiously as possible.

6. Subsequently, the impugned order dated 02.05.2026 was passed.

Mr. Kalita, learned counsel for the petitioner, submits that the action of the respondent authorities in cancelling the tender is arbitrary, more particularly when such action was taken subsequent to disclosure of the bid price offered by the petitioner.

7. It is further argued that the direction of this Court to bring the tender process to its "logical conclusion" shall mean that the settlement order ought to have been issued, and therefore, such action of the respondents is not only violative of the petitioner's right under Article 14 of the Constitution of India, but also in contempt of this Court's order dated 07.04.2026 passed in WP(C) No. 1782/2026.

8. I have given anxious consideration to the arguments advanced by the learned counsel for the parties.

9. Perusal of the order dated 02.05.2026, goes to show that the tender has been cancelled for the following reasons:

(i) While fixing the minimum value at Rs. 15,26,400/-, such rate was an abnormal enhancement of the minimum revenue compared to earlier approved value.

(ii) The mandatory Detailed Revenue Assessment

Report of the District Fishery Development Officer was not furnished along with the proposal submitted by the District Commissioner, Dibrugarh prior to the tendering process.

(iii) The Advisory Board constituted in this regard recommended re-tendering of the fishery in question along with some other fisheries for want of adequate competition in the bidding process, more particularly, in the Meen Mahal in question, only four bidders participated and only one bidder quoted a price above the minimum tender value.

(iv) It was concluded that in the interest of ensuring transparency, fairness, wider participation and the protection of government revenue, a fresh tender for the settlement of the fishery in question is to be initiated strictly in accordance with the Assam Fishery Rules, 1953 and government instructions issued from time to time.

(v) It was further decided that before issuance of a fresh NIT, the District Fishery Development Officer shall conduct a proper revenue assessment of the fishery and furnish a detailed assessment report for fixation of reasonable minimum revenue.

(vi) It was also mandated under the impugned order that the fresh NIT shall clearly incorporate all the mandatory Clauses, required documents, and conditions as prescribed under existing government orders and circulars with an adequate publicity to ensure wider participation.

10. Before proceeding further, let this Court record the well settled proposition of law that a bidder does not acquire an indefeasible right to the award of a contract

merely by being declared as the highest bidder. The procuring authority retains the power to reject the bids or cancel a procurement process in accordance with the governing statute and the tender conditions. However, the exercise of such power is not immune to judicial review.

11. In **Tata Cellular Vs. Union of India** reported in **(1994) 6 SCC 651**, the Hon'ble Supreme Court explained the limits of judicial review in contractual matters and emphasized that the Court examines the legality of the decision-making process rather than substituting its own assessment for its administrative authority.

12. In **Jagdish Mandal Vs. State of Orissa** reported in **(2007) 14 SCC 517**, the Hon'ble Supreme Court reiterated that interference in tender matters is warranted only where the process is arbitrary or irrational and where the public interest is affected. The Hon'ble Apex Court reiterated the same restraint in **Michigan Rubber (India) Limited Vs. State of Karnataka** reported in **(2012) 8 SCC 216**.

13. After a perusal of the impugned order dated 02.05.2026, this Court is of the opinion that apparently, the tender process has been cancelled upon noticing deficiencies in the process of tender, more particularly due to the non-assessment of revenue through a competent authority and without determining the exact value based on such assessment, which resulted in lack of competition.

14. In the opinion of this Court, such exercise of power cannot be said to be arbitrary, inasmuch as, it is by now well settled that when there are deficiencies in the tender process or there is general policy change, the employer shall be within its power to cancel a tender process.

15. That being the position, this Court while exercising its power under Article 226 of the Constitution of India, does not find any defect in the cancellation process warranting interference, more particularly, for the reasons of conclusion cited in the impugned order. Such reasons cannot be said to be arbitrary or irrational in derogation of statutory and established norms. Such direction is taken in the intent of

transparency, fairness and for under participation inasmuch as for want of prior Revenue Assessment Report, there was less participation. Such procedural defect in tender can very well be carried by cancelling the tender.

16. Accordingly, the writ petition stands dismissed.

17. The parties to bear their own costs.

18. It is needless to say that as the settlement relates to the public exchequer, the respondent authorities shall proceed with the tender process as proposed and decided under the impugned order dated 02.05.2026 within a reasonable period of time, instead of allowing the fisheries to be run under temporary/daily settlements.

JUDGE

Comparing Assistant