Assam vs The State Of Assam And 2 Ors on 22 June, 2022

Author: Manish Choudhury

Bench: Manish Choudhury

GAHC010121352022

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

Case No. : WP(C)/4148/2022

M/S MB OMM
GUIJAN GHAT, POST OFFICE- RANGAGORAH, GUIJAN, DISTRICT-
TINSUKIA, ASSAM, PIN CODE- 786147 HAVING GST REGISTRATION NO.
18AVWPD8621M1ZU AND LICENSE NO. 10317017000176 ISSUED UNDER
FOOD SAFETY AND STANDARDS ACT, 2006 BY THE GOVERNMENT OF
ASSAM, COMMISSIONERATE OF FOOD SAFETY, ASSAM, UNDER HEALTH
AND FAMILY WELFARE DEPARTMENT, ASSAM, A HOUSE BOAT, WHICH IS
A PROPRIETORIAL CONCERN OF SRI PRASSANNA DAS, AGED ABOUT 62
YEARS, SON OF LATE PARSURAM DAS, RESIDENT OF VILLAGE- GUIJAN,
POST OFFICE- RANGAGORAH, POLICE STATION- TINSUKIA, DISTRICT-
TINSUKIA (ASSAM).

VERSUS

THE STATE OF ASSAM AND 2 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM, TOURISM DEPARTMENT, DISPUR, GUWAHATI-
781006.

2:THE ASSAM TOURISM DEVELOPMENT CORPORATION LIMITED
ASOM PARYATAN BHAWAN (4TH FLOOR)
A.K. AZAD ROAD
 PALTAN BAZAR
 GUWAHATI- 781008
 REPRESENTED BY THE MANAGING DIRECTOR
ASSAM TOURISM DEVELOPMENT CORPORATION LIMITED
ASOM PARYATAN BHAWAN (4TH FLOOR)
A.K. AZAD ROAD
 PALTAN BAZAR
 GUWAHATI- 781008.

3:THE MANAGING DIRECTOR

Pa

ASSAM TOURISM DEVELOPMENT CORPORATION LIMITED
ASOM PARYATAN BHAWAN (4TH FLOOR)
A.K. AZAD ROAD
PALTAN BAZAR
GUWAHATI- 781008

Advocate for the Petitioner   : MR. S BANIK

Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY

ORDER

Date : 22.06.2022 Heard Mr. S. Banik, learned counsel for the petitioner and Ms. S. Sarma, learned Junior Government Advocate, Assam for all the respondents.

2. By a Press Notice [QCBS] dated 23.05.2022/Detail Notice Inviting Bid [QCBS] dated 31.05.2022, the respondent no. 3 has invited bids for the work, "Development, Operation and Management Contract for running the newly constructed Eco Tourism Projects for tourist facilities at Dibru-Saikhowa" and the last date of submission of bids is up to 2 pm, 27.06.2022.

3. The petitioner has been operating a House Boat at Guijan Ghat, Tinsukia since the year 2015. The petitioner is aggrieved by the eligibility criteria of the bidder laid down in Clause 3[ii] of the bidding document whereby only those bidders who have experience in running a Registered Hotel/Guest House/Resort having restaurant or F & B services for minimum three years have been made eligible to submit the bids. The bidding document has further mentioned that the bidders who do not fulfill the requirements need not participate in the bid process.

4. It is the case of the petitioner that as per "the Rules for regulating grant of incentives to entrepreneur for promotion of tourism in the State of Assam", notified by the Government Page No.# 3/3 notification dated 22.06.1992, the definition 'Hotel' means and includes also house boats with or without boat suitable for accommodation of tourists, and approved by the Department of Tourism. The petitioner has contended that the definition of ' Hotel' containing house boats in the said rules of the notification meets the eligibility criteria of the bidder for the contract- work in question. However, house boat is not specifically indicated in the aforesaid Press Notice [QCBS] and thus, the petitioner seeking appropriate remedy has preferred this writ petition.

5. Issue notice of motion, returnable in 3 [three] weeks.

6. As Ms. Sarma, learned Junior Government Advocate, Assam has appeared and accepted notices on behalf of all the respondents, no formal notices need to be issued to the said respondents. Mr. Banik shall furnish requisite numbers of extra copies of the writ petition along with the annexures, to Ms. Sarma within 3 [three] working days.

7. Considering that the petitioner has approached this Court by this writ petition without first approaching the concerned tendering authority, the petitioner may file a representation before the concerned tendering authority seeking clarification on the aforesaid aspect.

JUDGE Comparing Assistant