

GAHC010038592024



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

Case No. : WA/68/2024

BALRAJ AGRO INDUSTRIES
INDUSTRIAL AREA C,
OPP. DHANDARI RAILWAY STATION, LUDHIANA PUNJAB 141003
REPRESENTED BY ITS AUTHORISED AGENT,
RIDIP MAHANTA, AGE 40 YEARS,
S/O LATE RATNA MAHANTA,
ANANDA NAGAR, SIX MILE, GUWAHATI ,
DIST KAMRUP M ASSAM 781022

VERSUS

1. THE STATE OF ASSAM AND 3 ORS
REPRESENTED BY THE SECRETARY TO THE GOVT. OF ASSAM,
WELFARE OF MINORITIES AND DEVELOPMENT DEPARTMENT,
DISPUR, GUWAHATI- 781006.

2:THE SECRETARY TO THE GOVT. OF ASSAM
WELFARE OF MINORITIES AND DEVELOPMENT DEPARTMENT
DISPUR, GUWAHATI- 781006.

3:THE DIRECTORATE OF CHAR AREAS DEVELOPMENT ASSAM
HENGRABARI ROAD
DISPUR, GUWAHATI- 781006.

4:THE BID EVALUATION COMMITTEE
DIRECTORATE OF CHAR AREA DEVELOPMENT
ASSAM HENGRABARI ROAD
DISPUR GUWAHATI 78100

For the Appellant : Mr. R. Mahanta, Appellant-in-Person.

For the Respondent(s) : Ms. M.D. Borah, Standing Counsel, WMD Department.

- BEFORE -

**HON'BLE THE CHIEF JUSTICE MR. VIJAY BISHNOI
HON'BLE MR. JUSTICE SUMAN SHYAM**

06.03.2024

(Vijay Bishnoi, CJ)

This intra-Court appeal is filed by the appellant being aggrieved with the judgment dated 02.02.2024 passed by the learned Single Judge in WP(C) No.2089/2023 and WP(C) No.498/2023.

The brief facts of the case are that the respondent No.3 in the present appeal [Director of Char Areas Development, Assam] had floated a tender for procurement of battery operated hand sprayer machines vide public notice dated 09.11.2022. As many as 7(seven) persons had applied pursuant to the said public notice and during the course of evaluation of the financial bid, the rate quoted by one M/s Bhabani (a proprietor firm owned by Dilip Kr. Das) was found to be lowest and it was placed at L1. The appellant was placed at L2 as per the rate quoted by it. The Bid Evaluation Committee had rejected the bid of L1 on the ground that the rate quoted by it was too low and there was a possibility that there may be compromise in the quality of goods to be supplied. The Bid Evaluation Committee had thereafter decided to place order to the appellant which was L2. Later on, the respondent No.3 had cancelled the tender process on the recommendation made by the Finance Department.

Being aggrieved with the same, the appellant had preferred the aforesaid writ petitions [WP(C) No.2089/2023 and WP(C) No.498/2023] before this Court which came to be dismissed by the learned Single Judge vide the impugned

judgment dated 02.02.2024.

The learned Single Judge, while considering the facts of the case as well as the submissions made on behalf of the appellant/writ petitioner, has concluded that as per Condition No.37 of the Bid document, the Director is empowered to reject all the bids and therefore, if as per the advice of the Finance Department the tender process had been cancelled, there is no illegality in the same. The learned Single Judge has also taken into consideration the fact that the State Government has now decided to procure the items through the Government e-Marketplace (GeM) and the same being in public interest, hence, no interference is called for.

The appellant-in-person has submitted that there is no provision under the Assam Public Procurement Act, 2017 (in short, "the Act of 2017") to seek advice of the Finance Department and therefore, the respondent No.3 had illegally cancelled the tender process as per the advice of the Finance Department.

It is true that under the provisions of the Act of 2017, there is no provision for seeking advice of the Finance Department but it is also true that there is no bar in seeking advice from the Finance Department and if the respondent No.3 has cancelled the tender process as per the advice of the Finance Department, we do not find any illegality in the same.

In view of above, we do not find any merit in this intra-Court appeal and therefore, the same is dismissed.

JUDGE

CHIEF JUSTICE

Comparing Assistant