



THE GAUHATI HIGH COURT

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

Writ Petition (C) No. 2779/2025

M/s ASPEE Agro Equipment Pvt. Ltd., a private limited company incorporated under the Companies Act, 1956, having its administrative office at 4th Floor, ASPEE House, ASPEE Enclave, Opposite IOB Bank, Malad (West), Mumbai, 400064 represented by its Regional Sales Manager - Sri Indranil Saha, presently staying at A.T. Road, P.O. Guwahati, 781001, District - Kamrup [M], Assam.

.....Petitioner

-Versus-

1. The State of Assam represented by the Secretary to the Government of Assam, Agriculture Department, Dispur, Guwahati- 781006, Assam.
2. Secretary to the Government of Assam, Finance Department, Dispur, Guwahati, Assam.
3. The Director of Agriculture Assam, Khanapara, Guwahati – 781022, Assam.
4. The Departmental Bid Committee, Directorate of Agriculture, Assam, Khanapara, Guwahati - 781022, Assam.

.....Respondents

BEFORE
HON'BLE MR. JUSTICE MANISH CHOUDHURY

Advocates :

Petitioner : Mr. J.C. Gaur, Advocate.

Respondents : Mr. B. Choudhury,
Standing Counsel, Agriculture Department.

Date on which judgment is reserved : N/A

Date of pronouncement of judgment : 30.03.2026

Whether the pronouncement is of the
Operative part of the judgment? : N/A

Whether the full judgment has been
Pronounced ? : Yes

JUDGMENT

The present writ petition under Article 226 of the Constitution of India is preferred by the petitioner assailing a decision of the Departmental Bid Committee [DBC] / Tendering Authority to reject the bid of the petitioner at the stage of technical bid evaluation, which decision has been conveyed to the petitioner on 18.03.2025. The petitioner has also sought for a direction to the respondent authorities to consider its bid by re-examining the uploaded PDF file of size 37,995 KB containing the scanned copies of all the documents as per the relevant clause in Expression of Interest [EOI] or on the basis of the hardcopy of the bid with all the documents which the petitioner had submitted on 11.11.2024.

2. The genesis of the list is a Notice Inviting Expression of Interest [EOI] dated 08.10.2024 published by the respondent no. 3 whereby the EOIs were invited from eligible manufacturers for 'Empanelment of Manufacturers of Agricultural Machineries under the Directorate of Agriculture, Assam'.
3. As per the EOI Document, the Director of Agriculture, Government of Assam intended to empanel manufacturers of various agricultural machineries, brand/model along with their quoted rate in order to facilitate community procurement under different schemes of the Agriculture Department. The respondent no. 3, that is, the Director of Agriculture, Government of Assam is the Procuring Authority. Interested bidders were advised to study the EOI Document carefully before submitting bids in response to the EOI. The submission of the bid in response of the EOI shall be deemed to have been done after careful study and examination of the EOI Document with full understanding of its terms, conditions and implications. Interested bidders were informed to download the EOI Document from the designated portal : <https://assamtenders.gov.in>.
4. Originally, the last date of submission of EOI was fixed on 02.11.2024. Thereafter by a Corrigendum dated 28.10.2024, the last date of submission of EOI was extended till 11.11.2024. In Clause 1.3 of the EOI Document, the procedure for bid submission was laid down. Clause 2 of the EOI Document had provided for the instructions to bidders. The manner in which the bids were to be processed and evaluated was mentioned in Clause 5 of the EOI Document.
5. The petitioner has stated that it is in the manufacture of agriculture machineries, etc. under the brand name, 'ASPEE' and it has a number of agricultural tools and machineries which were sought for empanelment by the Tendering/Procuring Authority.

6. In response to the EOI, the petitioner submitted its bid in the designated portal : <https://assamtenders.gov.in> before the last date of EOI submission on 09.11.2024. The petitioner has claimed that it had successfully uploaded its bid under Bid Id no. 245832 on 09.11.2024 through Bidder IP Address : 14.98.98.62. The petitioner has stated that after successfully uploading its bid with all the supporting documents in a PDF file of size 37,995 KB, the petitioner was awaiting its empanelment in terms of the EOI Document as it claimed that it fulfilled all the technical eligibility criteria for empanelment.
7. It was on 18.03.2025 the petitioner received an e-mail from the Tendering Authority in reference to its bid submission in response to the EOI dated 08.10.2024. By the e-mail dated 18.03.2025, the petitioner was informed that its bid for the tender was rejected during technical evaluation by the DBC for the reasons recorded in the Minutes of the Meeting of the DBC, held on 13.02.2025. Aggrieved by rejection of its technical bid, the petitioner has approached this Court by the instant writ petition seeking the reliefs, mentioned above.
8. I have heard Mr. J.C. Gaur, learned counsel for the petitioner and Mr. B. Choudhury, learned Standing Counsel, Agricultural Department for all the respondents.
9. Mr. Gaur, learned counsel for the petitioner has submitted that the fact that the bid of the petitioner was successfully uploaded is evident from the fact that after uploading of the bid, a bid acknowledgement was generated and the bid of the petitioner was registered as Bid Id no. 245832. On 09.11.2024, the petitioner was informed that its bid had been successfully submitted on 09.11.2024 and a bid submission confirmation was also generated on 09.11.2024. Subsequently, the results of the technical bid opening were uploaded in the designated portal wherein status of the bid of forty nos. of bidders including that of the petitioner were uploaded.

- 9.1. But on 18.03.2025, the impugned decision regarding rejection of the petitioner's technical bid was communicated. Mr. Gaur has submitted that as per the Minutes of the Meeting of the DBC, held on 13.02.2025, the reason for rejection was shown to the effect that no scanned documents were submitted on-line in the e-Procurement portal as per Clause no. 2 of the EOI Document. It is his submission that in Clause 2 of the EOI Document, 14 nos. of documents enlisted therein were to be uploaded by a bidder in the e-Procurement portal failing which, the bid would be rejected. Mr. Gaur has submitted that in the uploaded file of size 37,995 KB, all the scanned copies of the documents enlisted in Clause 2 of the EOI Document were uploaded and the said fact had been acknowledged by the Tendering Authority. In such backdrop, the rejection of the technical bid of the petitioner on the ground of non-submission of the scanned copies of the documents on-line in the e-Procurement portal is without any basis.
- 9.2. Mr. Gaur has further submitted that the petitioner in addition to uploading of the scanned copies in e-Procurement portal, had also submitted a hardcopy of the bid along with all the supporting documents with a Representation before the Tendering Authority. But, the Tendering Authority did not give any consideration to the said Representation. Aggrieved by non-consideration of its Representation, the petitioner was constrained to approach this Court by the instant writ petition.
10. In response, Mr. Choudhury, learned Standing Counsel, Agriculture Department has submitted that in response to the EOI dated 08.10.2024, a total of forty nos. of bidders submitted their bids on-line in the e-Procurement portal. Though the Tendering Authority could download the files of thirty-nine bidders from the e-Procurement portal and could open those files, the file uploaded by the petitioner in the e-Procurement portal, containing the technical bid, could not be opened after downloading.
- 10.1. Referring to the affidavit-in-opposition filed by the respondent no. 3, Mr. Choudhury has submitted that the bid of the petitioner consisted of two PDF files

[i] ASSAM_TENDER_DOCS of size 37996 KB; and [ii] TENDER_FEES_EMD of size 427 KB. Despite efforts, the file of size 37996 KB could not be opened using different PDF file readers such as acrobat, small pdf.com, adobe express, etc. It was for such reason, the DBC adjudged the bid of the petitioner as non-resonposive one. He has highlighted that since the bids of the remaining thirty-nine bidders could be downloaded and opened for evaluation, no fault could be attributed to the Tendering Authority / DBC. In so far as the evaluation process is concerned, he has submitted that the DBC considered each of the thirty-nine bids in terms of the EOI Document and finally, decided to empanel thirty-three nos. of bidders for 223 nos. of brands and models of agricultural machineries, as detailed in Table 1 illustrated in the Minutes of the Meeting of the DBC.

- 10.2. He has further submitted that during the course of the writ proceedings, the Court on 06.02.2026 permitted the petitioner to appear before the DBC on 23.02.2026 to demonstrate that its technical bid could be opened in the e-Procurement portal. Accordingly, the petitioner appeared before the DBC on 23.02.2026 and on that day also, the petitioner could not open its technical bid in the e-Procurement portal. Having regard to the fact that the remaining thirty-nine bids could be downloaded and opened for evaluation, the decision of the Tendering Authority / DBC to adjudge the bid of the petitioner as non-responsive does not call for any interference.
11. The submissions advanced by the learned counsel for the parties have received due consideration of the Court. I have gone through the materials brought on record by the parties through their pleadings apart from the provisions and terms and conditions incorporated in the EOI Document.
12. In Clause 1.3 of the EOI Document, the procedure for bid submission was laid down. The relevant excerpts from Clause 1.3 are extracted hereinabove for ready reference :-

1.3 Procedure for Bid Submission

- i. The bidder[s] shall submit the bid online in the e-Procurement portal <https://assamtenders.gov>.
 - ii. The bidder must get registered with the e-Procurement portal using valid DSC for online submission of the EOI.
 - iii. Interested manufacturers have to submit their EOI online [scanned copy] on the e-Procurement portal within the stipulated date and time of submission in the manner as prescribed in this EOI.
 - iv. The EOI submission should be along with all documentary proof with respect to pre-qualification and other documents as mentioned in Clause No. 5.1 below while uploading online.
 - v. The manufacturers of Agricultural Machineries and their models enlisted by M&T Division, Department of Agriculture and Farmers Welfare, Ministry of Agriculture and Farmers Welfare, GoI and published in <https://farmech.gov.in> shall only be considered for empanelment.
13. In Clause 2 : 'Instructions to Bidders' [ITB], the bidders were specifically told to submit proper scanned copies of the fourteen nos. of documents, duly signed by the authorized signatory [wherever required], and to upload the same in the e-Procurement portal : <https://assamtenders.gov.in> within the stipulated date and time. It was made specific that the bid shall be rejected in the absence of any of the fourteen nos. of documents. The bidders were required to submit all the necessary documents/proof/declarations as per the requirement of the EOI Document in prescribed format to record their participation and facilitate the evaluation process. Bids without necessary supporting documents or without meeting the prescribed qualification criteria would be treated as non-responsive and would not be considered for further evaluation.

14. The pre-qualification cum technical eligibility criteria were incorporated in Clause 5.1 of the EOI Document. In Clause 5.2, evaluation of empanelment procedure were laid down in the following manner :-

5.2 : Evaluation and Empanelment Procedure

In order to evaluate and empanel agencies, the Directorate of Agriculture will constitute an Evaluation Committee to evaluate the bids submitted. During evaluation of bids, the Directorate of Agriculture may at its discretion, ask the bidders for clarification on their bids. The process of empanelment is as given below :

5.2.1 : Evaluation Process

- a. Scrutiny of eligibility criteria mentioned in the Clause No. 5.1 for responsiveness to the EOI will be done by the Evaluation Committee to determine whether the documents have been properly signed, qualification criteria fulfilled, all relevant papers submitted as per Clause No. 2 and whether the response to EOI is generally in order. The Evaluation Committee can seek additional information from the bidders, if needed. The response to the EOI not conforming to requirements will be rejected.
- b. The shortlisted bidders will be notified through e-Procurement portal i.e. <https://assamtenders.gov.in>.

5.2.2 : Empanelment

- a. The manufactures/authorized dealers shortlisted for empanelment will be required to sign an Agreement with the Directorate of Agriculture, accepting the terms and conditions laid down by the Directorate of Agriculture. After signing of the agreement, no variation or modification in

the terms of the agreement shall be made except by written amendment signed by both the parties.

- b. The empanelment shall be initially for a period of 1 year from the date of issuance of LoA to the shortlisted agency[s]. It can be extended through mutual consent based on the requirement of Director of Agriculture. The Director of Agriculture shall be free to cancel the empanelment at anytime during the period of engagement between the Director of Agriculture and the shortlisted agency, without assigning any reason.

15. As per the term of Clause on 5.2, the Departmental Bid Committee [DBC] was constituted by the respondent no. 3 to evaluate the bids submitted in response to the EOI dated 08.10.2024 by an Order dated 21.10.2024. The DBC opened the on-line bids in the e-Procurement portal on 11.11.2024 and prepared a preliminary Evaluation Report. On opening of the on-line bids, the DBC found that a total of forty nos. of bidders/manufactures had applied against eighteen nos. of items of agricultural machineries. After opening of the bids, the DBC found five nos. of bids non-responsive. The bid of the petitioner was one among the five the DBC had found non-responsive.
16. The reason for rejection of the bid of the petitioner, as mentioned above, is 'No scanned documents were found to have submitted online in the e-Procurement portal : <https://assamenders.gov.in> as per EOI Clause no. 2'. The DBC on further scrutiny found bids of three other bidders non-responsive due to various reasons. The DBC observed that the technical specification of eleven nos. of models of agricultural machineries offered by eleven nos. of bidders did not comply with the Technical Specification contained in Clause 4 of the EOI Document and therefore, decided not to consider those bids. Upon consideration of the remaining bids, the DBC found that the bids of thirty-three nos. of bidders for 223 nos. of models of agricultural machineries were responsive to the EOI Document and accordingly, decided to empanel those thirty-three nos. of bidders

for 223 nos. of models of agricultural machineries. The decision taken by the DBC were recorded in the Minutes of the Meeting, held on 13.02.2025.

17. In the counter affidavit filed by the respondent no. 3, it is averred that forty nos. of bidders including the petitioner had submitted their bids on-line in response to the EOI dated 08.10.2024. The Tendering Authority / DBC could download the zip files of thirty-nine bidders from the e-Procurement portal and the PDF files were extracted and opened. In case of the petitioner, the zip files of 30869 KB were downloaded and two PDF files, namely, [i] ASSAM_TENDER_DOCS of size 37996 KB; and [ii] TENDER_FEES_EMD of size 427 KB were found in the zip file. The second PDF file - TENDER_FEES_EMD of size 427 KB could be extracted where three pages were found. But the first PDF file - ASSAM_TENDER_DOCS of size 37996 could not be opened by using different PDF file readers, namely, acrobat, small pdf.com, adobe express, etc. showing dialogue boxes like – 'Looks like ASSAM_TENDER_DOCS.pdf is damaged and couldn't be uploaded', 'Unable to edit ASSAM_TENDER_DOCS.pdf', 'This file may be password protected, encrypted, corrupt or a pdf form', 'an error occurred [An error was encountered while processing the file. Some features might not work]', 'The file you're importing is damaged', etc.
18. As against the contention of the petitioner that on uploading of the file by the petitioner it showed by the e-Procurement portal that the bid of the petitioner with Bid Id no. 245832 was successfully uploaded, the respondent no. 3 has asserted that such bid acknowledgement was a system generated document which could be downloaded by bidder on submission of bid on-line by registering himself in the e-Procurement portal. But the bid acknowledgement by the e-Procurement portal did not confirm submission of all required documents as per the clauses of the EOI Document. With regard to the submission of hardcopy along with all the supporting documents and the contention regarding its non-consideration, it is contended on behalf of the Tendering Authority that there was no clause in the EOI Document which allowed submission of bid in any other

form other than on-line bid in the e-Procurement portal and therefore, the hardcopy, even it was submitted, was not to be considered.

19. To examine as regards reasons for non-consideration of the technical bid of the petitioner, the following conditions incorporated in the EOI Document are of relevance.

Clause no. 1.1 : Bids received, in part or full, after the deadline will not be considered in this procurement process.

Clause no. 1.3 [i] : The bidder[s] shall submit the bid online in the e-Procurement portal : <https://assamtenders.gov.in>.

Clause no. 1.3 [iii] : Interested manufacturers have to submit their EOI online [scanned copy] on the e-Procurement portal within the stipulated date and time of submission in the manner as prescribed in this EOI Document.

Clause no. 1.3 [iv] : The EOI submission should be alongwith all documentary proof with respect to pre-qualification and other documents as mentioned in Clause no. 5.1 below while uploading online.

Clause no. 2 [a] : The bidders must submit proper scanned copies of the following documents duly signed by the authorized signatory [wherever required] and upload in the e-Procurement portal : <https://assamtenders.gov.in> within the stipulate date and time. Bid shall be rejected in absence of anyone of the following documents.

Clause no. 2 [b] : The bidder must put his signature in all pages of all the documents and submit online. Submission of incomplete application shall be liable for rejection.

Clause no. 2 [I] : Bids without necessary supporting documents or without meeting the prescribed qualification criteria will be treated as non-responsive and will not be considered for further evaluation.

Clause no. 5.1 : If a bidder fails to enclose the documentary proof for eligibility, their bid is liable to be rejected.

Clause no. 5.2.1 [a] : The response to the EOI not confirming to requirements will be rejected.

Clause no. 6 : Failing to satisfying this criteria may result in disqualification of the entire bid submitted by the bidder.

20. It has emerged from the materials on record that after the decision of the DBC taken in the Meeting, held on 13.02.2025, Letters of Acceptance [LoAs] were issued to thirty-three responsive bidders on 20.03.2025 as empanelled manufacturers of agricultural machineries for a validity period of one year from the date of issuance of the LoAs as per Clause 5.2.2[b], subject to their execution of contract agreements and deposit of performance securities as per Clause 8 of the EOI Document. Twenty-nine nos. of responsive bidders had thereafter, executed the contract agreements and deposited performance securities and accordingly, on 15.06.2025, the list of twenty-nine empanelled manufacturers of the agricultural machineries had been published vide an Office Letter bearing no. e.662549 dated 15.06.2025.
21. As emerged from the Minutes of the Meeting of the DBC, out of forty nos. of participant bidders, it was possible to download the bids of all the forty participant bidders. After downloading, it was possible to open the files of thirty-nine nos. of bids. In case of the bid of the petitioner, the file bearing name, ASSAM_TENDER_DOCS of size 37996 KB could not be opened for the reasons already adverted to hereinabove. When the bids of the thirty-nine nos. of bidders uploaded on-line in the e-Procurement portal could be downloaded, extracted and opened by the DBC, a contention regarding fault at the end of the Tendering Authority/DBC cannot be countenanced. Notwithstanding the fact that the bid of the petitioner could not be opened for the reasons adverted hereinabove, the Court on 06.02.2026 had afforded an opportunity to the petitioner in deference to the observation made in the previous Order dated 12.12.2025, and upon being agreed to by the learned Standing Counsel, Agriculture Department on receipt of instruction, to attend the office of the Tendering Authority on an

agreed date to demonstrate that the technical bid uploaded by the petitioner was one which can be opened in the e-Procurement portal. To assist in such endeavour, the petitioner was allowed to take assistance of a technical expert.

22. Subsequent to the Order dated 06.02.2026, the authorized representative of the petitioner and a technical expert attended the office of the Tendering Authority on 27.02.2016 [the respondent no. 3] and appeared before the DBC in order to demonstrate opening of its technical bid uploaded in the e-Procurement portal on that day. In presence of the members of the DBC, the representative of the petitioner made attempts to open the technical bid of the petitioner in the e-Procurement portal : <https://assamtenders.gov.in>. But despite attempts, the concerned file could not be opened due to corruption/damage of the files and the same was noticed by the Members of the Tendering Authority/DBC. The proceedings of the Meeting of the DBC, held on 27.02.2026, were recorded in the Minutes prepared under the signatures of the Members of the DBC.
23. Mr. Choudhury, learned Standing Counsel, Agriculture Department had, thereafter, placed the Minutes of the Meeting of the DBC, held on 27.02.2026, before the Court with an Office Letter bearing no. E-703902/DFA/1691865 dated 17.03.2026.
24. The said opportunity was granted to the petitioner for the reason that LoAs were issued to the responsive empanelled bidders on 20.03.2025. In Clause 11 of the EOI Document, it was provided that the validity of the empanelment would be for a period of one year from the date of finalization of the empanelment. At the time of granting such opportunity, the period of empanelment did not expire. The matter of extension of the empanelment period is subject to discretion of the empanelment authority and that too, with mutual consent of both the sides.
25. It was for the bidder to ensure that its on-line bid was uploaded properly so as to enable the Tendering Authority to download, extract and open the same for its

evaluation. In view of the fact that out of forty nos. of uploaded bids, thirty-nine nos. of bids could be downloaded, extracted and opened save and except the bid of the petitioner, the fault for non-opening of the bid of the petitioner cannot be attributed to the Tendering Authority. It is evidently a mistake on the part of the petitioner who had uploaded a file, which could not be opened at the time of opening of the technical bids and also subsequently on 27.02.2026.

26. At this juncture, it is apt to refer to the decision of the Hon'ble Supreme Court in W.B. State Electricity Board vs. Patel Engineering Co. Ltd. and others, [2001] 2 SCC 451, wherein it is held that the mistakes/errors could be unintentional and could occur due to fault in the computer system. A mistake may be unilateral or mutual or but it is always unintentional. If it is intentional it ceases to be a mistake. It is held therein that the instruction cannot be given a go-bye by branding it as a pedantic approach otherwise it will encourage and provide scope for discrimination, arbitrariness and favouritism which are totally opposed to the rule of law and the constitutional values. The very purpose of issuing rules/instructions is to ensure their enforcement lest the rule of law should be a casualty. Relaxation or waiver of a rule or condition, unless so provided under the concerned tender document by the State or its agencies in favour of one bidder would create justifiable doubts in the minds of other bidders, would impair the rule of transparency and fairness and provide room for manipulation to suit the whims of the State agencies in picking and choosing a bidder for awarding contracts as in the case of distributing State largesses.

27. In Banshidhar Construction [P] Ltd. vs. Bharat Coking Coal Ltd., [2024] 10 SCC 273, the Hon'ble Supreme Court has observed as under :-

28. There cannot be any disagreement to the legal proposition propounded in a catena of decisions of this Court relied upon by the learned counsel for the respondents to the effect that the Court does not sit as a court of appeal in the matter of award of contracts and it merely reviews the

manner in which the decision was made; and that the Government and its instrumentalities must have a freedom of entering into the contracts. However, it is equally well-settled that the decision of the Government/its instrumentalities must be free from arbitrariness and must not be affected by any bias or actuated by mala fides.

29. Government bodies being public authorities are expected to uphold fairness, equality and public interest even while dealing with contractual matters. Right to equality under Article 14 abhors arbitrariness. Public authorities have to ensure that no bias, favouritism or arbitrariness are shown during the bidding process and that the entire bidding process is carried out in absolutely transparent manner.

28. It is a settled proposition that mistakes committed by a bidder in a bid document cannot be permitted to be corrected on the basis of equity. Any technical glitch occurred in uploading of the bid of the petitioner in the designated portal, as involved in the instant writ petition, is not permitted to be rectified in the fact situation obtaining in the case, as the thirty-nine other participant bidders had successfully uploaded their bids without any problem in the designated portal.
29. In view of the discussions made and for the reasons assigned therein and having found no infirmity in the decision-making process, which is demonstrate to be carried out in a fair, reasonable and transparent manner, leading to the decision to adjudge the technical bid of the petitioner as non-responsive, this Court is of the view that the instant writ petition lacks merit and is liable to be dismissed. The writ petition is accordingly dismissed. There shall, however, be no order as to cost.

JUDGE

Comparing Assistant

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