

GAHC010162652025



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

Case No. : WP(C)/4289/2025

DILIP CHANDRA KALITA
S/O LATE BALAI KALITA, VILL- PAYALA, P.O.- BARDIGHELI, P.S.-
NALBARI, DIST- NALBARI, PIN-781334, ASSAM

VERSUS

THE STATE OF ASSAM AND 3 ORS.
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM, IRRIGATION DEPARTMENT, DISPUR, GUWAHATI-06

2:CHIEF ENGINEER
IRRIGATION
ASSAM
CHANDMARI
GUWAHATI-03

3:THE DISTRICT COMMISSIONER
NALBARI
PIN-781335

4:THE EXECUTIVE ENGINEER
DHARMAPUR BARKHETRI NALBARI DIVISION (IRRIGATION)
NALBARI
PIN-78133

For the petitioner (s) : Mr. S. Sahu, Advocate

For the respondent (s) : Mr. B. Gogoi, Addl. AG
Mr. N. Upadhyay, SC, Irrigation

BEFORE
HON'BLE MR. JUSTICE DEVASHIS BARUAH
ORDER

04.08.2025

Issue notice making it returnable on 08.09.2025.

2. Mr. N. Upadhyay, the learned counsel appears on behalf of the respondent Nos.1, 2 & 4 and Mr. B. Gogoi, the learned Additional Advocate General, Assam appears on behalf of the respondent No.3 and accepts notice. Extra copies of the writ petition be served upon the learned counsels by 06.08.2025.

3. The case of the petitioner herein is that pursuant to a notice inviting short tender dated 14.06.2024 issued by the Executive Engineer, Dharmapur, Barkhetri, Nalbari Division (Irrigation), Nalbari, the petitioner was awarded the two contracts for (1) Boring & Installation of Tube Well & Installation and Commissioning Solar PV Modules including Mounting Structure at Construction of 1 No. Solar Powered MDTW Scheme at 2 No. Ghorathal Village under SOPD-SCSP for the year 2023-24 and (2) Boring & Installation of Tube Well & Installation and Commissioning Solar PV Modules including Mounting Structure at Construction of 1 No. Solar Powered MDTW Scheme at 2 No.

Ghorathal Village under SOPD-SCSP for the year 2023-24.

4. It is the case of the petitioner that although the contract agreement was entered into, but the site was not delivered to the petitioner on account of certain complaints. However, all of a sudden on 25.06.2025, the Executive Engineer, Barkhetri, Nalbari Division, i.e. the respondent No.4 had issued the cancellation order in respect to the two contracts which were awarded to the petitioner.

5. The petitioner is aggrieved by the action on the part of the respondent authorities to cancel the said contracts, that too without providing any opportunity of hearing.

6. Mr. N. Upadhyay, the learned counsel appearing on behalf of the Irrigation Department submitted upon instructions that the reason for which the contract entered into between the petitioner and the respondent Department was on account of a composite contract which was bifurcated into four divisions by the Executive Engineer, i.e. the respondent No.4 so that the requirement of online bidding is dispensed with. The learned counsel therefore submitted that from very notice inviting short tender, it would be seen that all the four contracts were purposefully made below Rs.20 lakhs so that there is no requirement to follow the mandate of online bidding in terms with the Assam Public

Procurement Rules, 2020 and the notification issued in connection therewith.

7. Taking into account the overall stand by the parties, this Court directs the Irrigation Department to bring on record their stand by filing their affidavit on or before 01.09.2025.

8. Mr. B. Gogoi, the learned Additional Advocate General who appears on behalf of the respondent No.3 is also the Standing Counsel for the Finance Department. This Court would direct the Finance Department to bring on record their stand as to such a course of action is permissible of bifurcating a composite contract in order to dispense with the online bidding.

9. List accordingly.

JUDGE

Comparing Assistant