

GAHC010186572025



2026:GAU-AS:2525

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

Case No. : WP(C)/5076/2025

NALINI SAIKIA
S/O LATE NABIN CH. SAIKIA, R/O VILL- MAJGAON KHARA ATI, P.O. AND
P.S.- TEZPUR, DIST- SONITPUR, ASSAM, PIN-784001

VERSUS

THE STATE OF ASSAM AND 8 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM, DEPARTMENT OF HOUSING AND URBAN
AFFAIRS, DISPUR, GUWAHATI-06

2:THE DISTRICT COMMISSIONER
SONITPUR
ASSAM

3:THE CHIEF EXECUTIVE OFFICER
TEZPUR MUNICIPAL BOARD
TEZPUR
SONITPUR

4:THE CHAIRMAN
TEZPUR MUNICIPAL BOARD
TEZPUR
DIST- SONITPUR
ASSAM

5:THE DISTRICT ELECTION OFFICER
TEZPUR
SONITPUR

6:PRITAM BORA
S/O DHARANIDHAR BORA

R/O VILL- GHORPORA CHUBURI
HOUSE NO. 46
P.O.- TEZPUR
DIST- SONITPUR
ASSAM
PIN-784001

7:BHANU PRATAP BORA
S/O DHARANIDHAR BORA
R/O VILL- GHORPORA CHUBURI
HOUSE NO. 46
P.O.- TEZPUR
DIST- SONITPUR
ASSAM
PIN-784001

8:MUKUL NATH
S/O BHOGESWAR NATH
R/O VILL- RUBBER BAGAN
WARD NO. 16
P.O.- TEZPUR
DIST- SONITPUR
ASSAM
PIN-784001

9:LAKHYAJYOTI NATH
S/O KESHAB NATH
R/O VILL- USHANAGAR
WARD NO. 17
BYE LANE-6
P.O.- TEZPUR
DIST- SONITPUR
ASSAM
PIN-78400

Advocate for the Petitioner : MR. N BORAH, S K LAHAN

Advocate for the Respondent : GA, ASSAM, MR. S BISWAS (R-3), MS D DEVI, MR. S BISWAS, MS D DEVI (R-3), MR D MAHANTA (R-6), MR. N D SARMA (R-6), SC, ELECTION COMMISSION.

**BEFORE
HONOURABLE MR. JUSTICE N. UNNI KRISHNAN NAIR**

ORDER

Date : 17.02.2026

Heard Mr. N Borah, learned counsel for the petitioner. Also heard Mr. M Chetia, learned counsel appearing for respondents No. 1 & 2, Mr. S Biswas, learned Standing counsel, Tezpur Municipal Board, Tezpur appearing for the respondents No. 3 & 4 and Mr. D Mahanta, learned counsel appearing for respondent no. 6. None has entered appearance on behalf of respondents No. 7, 8 & 9.

2. The petitioner, by way of instituting the present Writ Petition, has presented a challenge to an order dated 29.03.2025, settling the Bhairab Market under Tezpur Municipal Board, Tezpur, in favor of the respondent No. 6. The petitioner has also assailed a communication dated 07.07.2025 issued by the Chairman, Tezpur Municipal Board, Tezpur, rejecting the claim made by the petitioner in his representation dated 31.03.2025, preferred against the allotment of the market in question in favor of the respondent no. 6.

3. Mr. N Borah, learned counsel for the petitioner, by reiterating the facts noticed, hereinabove, has submitted that the settlement made, in respect of respondent No. 6, was so made by adopting a criteria, foreign to the stipulations made in the NIT. He submits that the decision of the Municipal Board so arrived in its meeting held on 29.03.2025, to settle the market with unemployed youths, is clearly not applicable in case of the respondent No. 6, in as much as he was not an unemployed youth at the relevant point of time and was involved in business activities. Mr. N Borah, learned counsel for the petitioner has further submitted that he has a long experience in the running of markets and accordingly, the Tezpur Municipal Board ought to have effected the settlement in question by evaluating the experience of

the bidders in running of such markets.

4. Mr. N Borah, learned counsel for the petitioner, by referring to the NIT, has submitted that one of the conditions stipulated is that in the event a bidder who was settled with the contract by the Municipal Board earlier and was a defaulter therein, would not be eligible to submit its bids, in pursuance to the NIT in question. He submits that the tender conditions also stipulate that relatives of such defaulting contractors would also be not eligible to submit their bids in pursuance to the NIT in question. Mr. N Borah, learned counsel for the petitioner submits that the brother of the petitioner was a sitting lessee of the market in question for the year prior to 2025/2026 and he was vide communication dated 23.12.2024, declared to be defaulter in paying the kist amount of the market in question. He, accordingly, submits that the bid of the petitioner in terms Clause 9 of the tender conditions, as set out in the NIT in question, was to be declared to be non-responsive on this count. Mr. N Borah, learned counsel for the petitioner further submits that the grounds assigned by the Chairman of the Municipal Board towards rejecting his representation vide the communication dated 07.07.2025, are clearly perverse, in as much as the settlement in respect of the respondent No. 6, was so made solely by considering him to be an unemployed youth, whereas, the documents submitted by the petitioner along with his bid, did not establish that the respondent no. 6 was, in fact, an unemployed youth, at the relevant point of time.

5. In the above premises, Mr. N Borah, learned counsel for the petitioner, submits that the allotment of the tender of the respondent no. 6 would mandate an interference from this Court with a further direction to the Tezpur Municipal Board authorities to allot the work in question for the remaining period of the tender by resorting to an neutral process like draw of lotteries.

6. *Per contra*, Mr. D Mahanta, learned counsel appearing for the

respondent No. 6, at the outset, has submitted that the contentions of the learned counsel for the petitioner, that the respondent no. 6, was ineligible to submit his bid, on account of the fact that his brother, who was the earlier sitting lessee of the market in question, was a defaulter, is clearly perverse in as much as the dues, receivable from the brother of the petitioner were duly deposited by his brother, before the respondent no. 6 had submitted his bids in the matter. Mr. D Mahanta, learned counsel appearing for the respondent No. 6 has further submitted that the eligible bidders, in pursuance to the NIT in question, for the market place involved having submitted bids of the same value, the settlement of the market with the respondent no. 6, by the Board, had not caused any prejudice to public interest.

7. Mr. D Mahanta, learned counsel appearing for the respondent No. 6, has further submitted that there being no allegation of malafide, brought on record by the petitioner against the authorities involved in settlement of the market in favour of the respondent No. 6, this Court, only to protect the private interest of the petitioner, herein, would not proceed to interfere with the settlement so made in respect of the respondent No. 6.

8. Mr. S Biswas, learned Standing counsel, Tezpur Municipal Board, Tezpur, has submitted that the Tezpur Municipal Board, in its meeting held on 29.03.2025, with regard to the settlement of the works involved in the NIT dated 07.03.2025, upon scrutiny of the rates, quoted in the various bids, submitted in pursuance to the NIT dated 07.03.2025 and also on perusal of the documents submitted by the bidders along with their respective bids, had resolved to settle the contracts involved with unemployed youths, so as to extend an opportunity to them to be financially self-reliant and for the purpose, had also resolved to not settle the contract with experience bidders, who were settled with contracts involved earlier.

7. I have heard the learned counsel for the parties and perused the materials available on record.

8. The Tezpur Municipal Board, vide an NIT dated 07.03.2025, invited bids amongst the others for settlement of Mahabhairab Market, for the year 2025-2026. The government reserved bid value for the market in question was quoted as Rs. 13,23,000/- (Rupees Thirteen Lakh Twenty Three Thousand Only). The bids submitted by the petitioner and the respondent No. 6 along with others were found to be responsive. Further, on examination of the price bids of the eligible bidders, it was found that all of them had quoted an amount of Rs. 14,55,300/- (Rupees Fourteen Lakh Fifty Five Thousand Three Hundred Only). The eligible bidders having quoted the same amount, the bids were considered by the Municipal Board in its meeting held on 29.03.2025. The Board adopted a criteria for allotting the market in question to bidders who were unemployed, so as to provide them financial stability and for the purpose it was decided that the bidders, who were experienced, would not be granted preference for such allotment of the contracts as tendered vide the NIT dated 07.03.2025. It is applying the said criteria that the respondent no. 6, herein, was settled with the market in question, for the year 2025-2026. The challenge in the present proceeding is to the said criteria as adopted by the Board for settlement of the market in question in favour of the respondent No. 6.

9. This Court has perused the NIT in question along with the resolution as adopted by the Municipal Board in its meeting held on 29.03.2025 (copy of which was furnished by learned counsel for the Board during the hearing of the present proceedings), along with the contentions raised by the Chairman of the Municipal Board in the communication dated 07.07.2025.

10. On a perusal of the tender conditions, this Court does not find any criteria to have been spelt out, therein, with regard to the manner in which the Board would settle markets, wherein, all the eligible bidders have quoted the same amount. It is seen that the criteria for settlement of the market was so determined only after the bids were received in the matter by the Municipal Board. The Municipal Board in its meeting held on

29.03.2025, upon perusal of the bids so received for the Markets, Ghats, Parking Areas, adopted a resolution to the effect that the contracts involved would be allotted to unemployed youth so as to give them an opportunity to become financially stable and for the purpose, the experienced bidders would be replaced.

11. In pursuance to a direction passed by this Court Mr. S Biswas, learned counsel appearing for the Tezpur Municipal Board, has placed on record, the bid documents submitted by the respondent no. 6. On a perusal of the same, this Court finds that the respondent no. 6 had submitted his Income Tax returns for the assessment year 2024/2025 and an income of Rs. 8,78,360/- (Rupees Eight Lakh Seventy Eight Thousand Three Hundred Sixty Only) was disclosed, therein, by the respondent no. 6. There being no further specification with regard to the manner in which the said income was received by the respondent no. 6, herein, it was not possible for the Municipal Board authorities basing on the documents coming on record to arrive at a conclusion that the respondent No. 6 was an unemployed person. A person cannot be said to be employed only in the event he is appointed against a particular post and is in a service. A person involved in business activities is also to be deemed as an employed person. Accordingly, the petitioner, in the present proceedings, having also raised a plea that the respondent No. 6 was involved in business activities, it was not open for the Municipal Board to arrive at a conclusion, basing on the materials available on the record that the respondent no. 6 was, in fact, an unemployed person. This Court also finds that the criteria as adopted by the Municipal Board being a criteria so determined after the bids were so received i.e. after the tendering process was initiated and concluded, this Court is of the considered view that the criteria, as adopted by the Municipal Board for award of the contract involved, to be a criteria foreign to the stipulations made in the NIT in question. Accordingly, basing on the said criteria, the market in question could not have been settled with the

respondent no. 6. The petitioner, in the present proceedings, has also raised a plea that the tender in question is to be settled by evaluating the bidders basing on the experience garnered by them in running of such markets/haats etc. This Court is of the considered view that the NIT having also not specified the bids in question would be evaluated, in the event the bid value is found to be equal amongst the various eligible bidders, by evaluating the experience possessed by each of the bidders, the said criteria would also not be permissible to be so applied for determining the bidder with whom the market is now to be settled.

12. Having drawn the above conclusion, this Court is of the considered view that in absence of any stipulation made in this connection, as to the manner in which the bids would be evaluated, in the event, the bid value quoted by the eligible bidders is one and the same, this Court is of the view that a neutral procedure is required to be so adopted by the tendering authority for settlement of bid contracts in such a matter.

12. Accordingly, this Court is of the considered view that in a situation, wherein, by the eligible bidders have quoted the same value, in absence of any stipulation made in the NIT to meet such situation, the tendering authorities is called upon to determine the bidder to whom the work is to be allotted by resorting to a process of draw of lots, amongst the eligible bidders.

13. Accordingly, the contract awarded to the respondent no. 6, admittedly being so done basing on a criteria foreign to the stipulations so made in the NIT, the settlement of the market made with the respondent no. 6, vide order dated 29.03.2025, stands set-aside. The Tezpur Municipal Board is directed to undertake a process of a fresh settlement of the market, for the remaining period, by resorting to a process of draw of lots, amongst the eligible bidders who had submitted their bids, in pursuance to the NIT dated 07.03.2025. Let the said exercise be carried out within a period of 10(ten) days from the date of receipt of a certified copy of this order.

14. With the above observations and directions, the present Writ Petition stands disposed of.

JUDGE

Comparing Assistant