

GAHC010193552025



2026:GAU-AS:6278

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

Case No. : WP(C)/5092/2025

RAJU DAS
S/O MANORANJAN DAS, R/O MOIRABARI, P.O. AND P.S.- MOIRABARI,
DIST- MORIGAON, ASSAM, PIN-782126

VERSUS

THE STATE OF ASSAM AND 6 ORS
REPRESENTED BY ADDITIONAL CHIEF SECRETARY TO THE
GOVERNMENT OF ASSAM, PANCHAYAT AND RURAL DEVELOPMENT
DEPARTMENT, DISPUR, ASSAM, GUWAHATI-6

2:THE COMMISSIONER
PANCHAYAT AND RURAL DEVELOPMENT
ASSAM
JURIPAR
PANJABARI
GUWAHATI-37
ASSAM

3:THE DISTRICT COMMISSIONER
MORIGAON
ASSAM
PIN-782105

4:THE MORIGAON ZILLA PARISHAD
REPRESENTED BY ITS CHIEF EXECUTIVE OFFICER
P.O. AND P.S.- MORIGAON
DIST- MORIGAON
ASSAM
PIN-782105

5:THE CHIEF EXECUTIVE OFFICER

MORIGAON ZILLA PARISHAD
P.O. AND P.S.- MORIGAON
DIST- MORIGAON
ASSAM
PIN-782105

6:THE MARKET SETTLEMENT COMMITTEE
MORIGAON ZILA PARISHAD
REPRESENTED BY ITS CHAIRMAN
DIST- MORIGAON
ASSAM
PIN-782126

7:MD. JIADUL ISLAM
S/O HAMED ALI
R/O MOIRABARI
P.O. AND P.S.- MOIRABARI
DIST- MORIGAON
ASSAM
PIN-78212

Advocate for the Petitioner : MR. P P DUTTA, MS. P P DAS,MS P SARMA

Advocate for the Respondent : SC, P AND R.D., MRS. H THAKURIA (R-7),F K R AHMED (R-7),GA, ASSAM

:::BEFORE:::

HON'BLE MR. JUSTICE N. UNNI KRISHNAN NAIR

For the Petitioner : Mr. T. J. Mahanta, Sr. Advocate.
Mr. P. P. Dutta, Advocate

For the Respondents : Ms. N. Bora, Advocate.
Mr. F. K. R. Ahmed, Advocate.
Ms. U. Das, Addl. Sr. Govt. Advocate

Date on which judgment is reserved : 07.01.2026

Date of pronouncement of judgment : 30.04.2026

Whether the pronouncement is
of the operative part of the judgment ? : NA

Whether the full judgment has been : Yes
pronounced ?

Judgment and Order (CAV)

Heard Mr. T. J. Mahanta, learned Senior Counsel, assisted by Mr. P. P. Dutta, learned counsel, appearing for the petitioner. Also heard Ms. N. Bora, learned Standing Counsel, Panchayat & Rural Development Department, Assam, appearing for the respondent nos.1, 2, 4, 5 and 6; Ms. U. Das, learned Additional Senior Government Advocate, appearing for the respondent no.3 and Mr. F. K. R. Ahmed, learned counsel, appearing for the respondent no.7.

2. The petitioner by way of instituting the present proceeding has assailed an order dated 02.07.2025, issued by the Chief Executive Officer, Morigoan Zilla Parishad, settling the Moirabari By-Weekly Market, for the Panchayat financial year 2025-2026, with the respondent no.7, herein.

3. The Chief Executive Officer, Morigoan Zilla Parishad, along with the District Commissioner, Morigaon, as the In-Charge President of Morigoan Zilla Parishad, had issued a tender notice dated 05.06.2025, for settlement of various Markets/Hats/Ghats/Fisheries/Pounds etc., in Morigoan District, for the Panchayat financial year 2025-2026 w.e.f. 01.07.2025 to 30.06.2026, by invoking the provisions

of the Assam Panchayat Act, 1994, as amended. The said tender was also issued for settlement Moirabari Bi-weekly market. The petitioner along with the respondent no.7 and others had submitted their respective bids for settlement of Moirabari Bi-weekly Market. In terms of the provisions of Clause 12 of the tender notice, it was mandated that only those tenders would be accepted for consideration, wherein, the bid value was within 10% of the average settlement value for the last 03 (three) years for the market, in question. The petitioner submitted his bid, for an amount of Rs.30,55,384/- (Rupees Thirty Lakhs Fifty Five Thousand Three Hundred Eighty Four), while the respondent no.7 had submitted his bid for a value of Rs.30,55,360/- (Rupees Thirty Lakhs Fifty Five Thousand Three Hundred Sixty). On opening of the bids so received, a comparative statement was prepared and therein, the bid offered by the petitioner was cancelled holding that the same was higher than 10% of the average value of settlement of the market for the last 03 (three) years. The bid submitted by one Ashim Roy was also rejected on the same grounds. The bids submitted by the other 12 (twelve) bidders including respondent no.7 were held to be eligible and all having quoted an amount of Rs.30,55,360/- (Rupees Thirty Lakhs Fifty Five Thousand Three Hundred Sixty), they all were held to be 'H1' bidders. As the bidders held to be eligible having quoted similar bid value, for selection of the successful bidder, a lottery was held and therein, the respondent no.7 was selected as the successful bidder in the tender process for settlement of the market, in question. In terms of the selection of respondent no.7, the Chief Executive Officer, Morigaon Zilla Parishad, proceeded vide communication dated 02.07.2025 to settle the market, in question, with the respondent no.7 at his bid value of Rs.30,55,360/-

(Rupees Thirty Lakhs Fifty Five Thousand Three Hundred Sixty).

The petitioner being aggrieved by the rejection of his bid as well as the settlement of the market, in question, with the respondent no.7 has instituted the present proceedings.

4. Mr. T. J. Mahanta, learned Senior Counsel, appearing for the petitioner, by reiterating the facts noticed, hereinabove, has submitted that the average bid value for the last 03 (three) years for the market, in question, was computed as Rs.27,77,600/- (Rupees Twenty Seven Lakhs Seventy Seven Thousand Six Hundred) and the bid value of the petitioner being Rs.30,55,384/- (Rupees Thirty Lakhs Fifty Five Thousand Three Hundred Eighty Four), the same which was higher in value by only Rs.24/-. It is submitted that the petitioner's bid was 10.00086% higher than the average bid value computed in terms of Clause 12 of the tender notice. It is submitted that the petitioner's bid value being only higher by 10.0086% of the average bid value for the last 03 (three) years, the excess being negligible, ought to have been ignored by the respondent authorities and the market, in question, was required to be settled with the petitioner by considering his bid value to be highest. The learned Senior Counsel for the petitioner has submitted that given the bid value of the petitioner and the same being in excess by 10.0086%, than the average settlement value for 03 (three) years, the same could not have been held by the respondent authorities to be in violation of the provisions of Clause 12 of the tender conditions. He further submits that the bid value of the petitioner could not have been held to be an absurd one.

In support of his such submissions the learned Senior Counsel has relied on the decision of a Co-ordinate Bench of this Court in the case of **Kalita Constructions & Ors. Vs. State of Assam & Ors.**, reported in **(2017) 5 GLR 373**.

5. Mr. T. J. Mahanta, has further submitted that from a perusal of the comparative statement, it would be evident that the bid submitted by the respondent no.7, had not conformed to the tender conditions, inasmuch as, the respondent no.7, along with his bid has not submitted a Bakijai Clearance Certificate, Debt Clearance Certificate and an affidavit from the guarantor as mandated under the provisions of Clause 17 and Clause 20 of the tender conditions. Accordingly, it is submitted that the bid of the respondent no.7 ought to have been rejected.

6. Ms. N. Bora, learned Standing Counsel, P&RD Department, Assam, has submitted that the bid value of the petitioner was found to be not in conformity with the provisions of Clause 12 of the tender notice. It is submitted that Clause 12 of the tender conditions mandated that all bids which are higher than 10 % of the average settlement value of the market for the last 03 (three) years shall not be accepted for consideration. She submit that the said provisions has been incorporated in the tender notice in terms of the amended provisions of Sub Rule (1) of Rule 47 of the Assam Panchayat (Financial) Rules, 2002. By referring to the amended provisions of 47 (1) of the said Rules of 2002, it is submitted that the same mandates that there cannot be a settlement of tender in respect to Hats/Ghats/Fisheries/Pounds, beyond

10% of the average settlement value for the last 03 (three) years of the concerned Hats/Ghats/Fisheries/Pounds. She submits that there being a statutory bar for accepting tenders having bid value more than 10 % of the settlement value of the market, in question, for the last 03 (three) years, the rejection of the bid of the petitioner cannot be said to be erroneous. She submits that what is relevant to be noticed is as to whether the bid submitted by a bidder strictly confirmed to the provisions of Clause 12 of the tender conditions and not the percentage by which it had exceeded the bid value computed as per the provisions of Clause 12 of the tender conditions.

7. With regard to the contention of the petitioner that the bid submitted by the respondent no.7 was not mandated to be accepted, inasmuch as, the same was not in conformity with the provisions of Clause 17 and Clause 20 of the tender documents, it is submitted that the Bakijai Clearance Certificate of the respondent no.7 is found to be available in the records. She further submits that the records reveal that, the Respondent No.7 had furnished all the mandated documents. With regard to the contention of the petitioner not submitting an affidavit from a guarantor, it is submitted that the respondent no.7 had given as security land possessed by him and the value of the same was found to be sufficient to cover the bid value as offered by the respondent no.7. It is further submitted that the respondent no.7, along with his tender has submitted the jamabandi copies of the land as offered in the matter. Accordingly, it is submitted that the respondent no.7 having submitted his own land documents, there was no requirement of submission

of a guarantor affidavit in the matter. Accordingly, it is submitted that the settlement of market with the respondent no.7 would not mandate an interference from this Court. Ms. Bora in support of her submissions has furnished the records in original.

8. Mr. F. K. R. Ahmed, learned counsel, appearing for the respondent no.7, by reiterating the submissions made by the learned Senior Counsel, P&RD Department, has submitted that the Respondent No.7 had furnished the Bakijai Clearance Certificate dated 24.06.2025, issued by the Certificate Officer, Bakijai Branch, of the Office of the District Commissioner, Morigaon, along with his bid. By referring to the provisions of the tender form, it is submitted only in the event, the bidder does not have landed property to offer as surety than only necessary documents of a Zaminder would be required to be submitted. It is submitted that the respondent no.7 had sufficient landed property standing in his name and accordingly, he had offered 3 bighas 2 kathas 17 lechas of his landed property as surety out of the landed property of 22 bighas 3 kathas 7 lechas, covered by Patta No.119, 47, 267 under Dag No.73, 363 and 286, situated at village Mouza-Moirabari under Laharighat Revenue Circle, along with copies of the jamabandi of the said property. It is submitted that the landed property offered by the petitioner being sufficient to cover the bid value, there was no necessity for bringing on record an affidavit from a guarantor.

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

10. The issue arising for consideration in the present writ petition is with regard to the provisions of Clause 12 of the tender conditions. The provisions of Clause 12 being relevant is extracted hereinbelow;

“12. In respect of all Market/Haat/ghat/Fishery/Pound etc, only those tenders will be accepted for consideration whose bid amount are within 10% of the average settle value of last 03 (three) years.”

11. The provisions of Clause 12 have been so incorporated in the tender conditions in terms of the provisions of Rule 47 (1) of the Rules of 2002, as amended by the provisions of the Assam Panchayat (Financial) (Amendment) Rules, 2025. The amended provisions of Rules 47 (1) of the Rules of 2002, being relevant is extracted hereinbelow;

“RULES AND PROCEDURES FOR THE SALE AND SETTLEMENT OF MARKETS, FERRIES, FISHERIES AND PONDS.

47. (1) “Such hats or ferries or fisheries or pounds as are vested in or placed under the control and administration of the Panchayat under Sections 105,106,107,108 and 109 of the Act shall be settled by inviting sealed tenders affixing court fee stamp for such amount not exceeding 10% of the average settled value of the last three years for the respective hats, ferries, fisheries, pounds etc. and the earnest money shall not be below two percent of the minimum bid value for sale and settlement of the right to collect the authorized fees in respect of the hats, ferries, fisheries, pounds etc. for a period coinciding with one Panchayat Financial Year. Earnest money so received shall be entered in a Register in FORM No. 12.”

12. A perusal of the provisions of Rule 47 (1) would make it evident that it is

mandated that there cannot be a settlement of a tender in respect to Haats/Ghats/Fishery/Pound above 10 % of the average settlement value of the last 03 (three) years for the respective Hats/Ghats/Fishery/Pound. Accordingly it is seen that statutorily it has been prescribed that in respect of the Markets/Hats/Ghats/Fishery/Pound, the bid value should not exceed 10% of the average settlement value of the last 03 (three) years. The statutory prescription contained in the provisions of Rule 47 (1) of the Rules of 2002, is found to have been incorporated in the provisions of Clause 12 of the tender conditions. Accordingly, this Court is of the considered view that the said condition is a mandatory one.

13. The contention of the petitioner in the present proceedings is that the bid submitted by him having exceeded 10% of the average bid settlement value of the market, in question, for the last 03 (three) years by 10.0086 %, the same would be mandated to be ignored, inasmuch as, the excess value of the bid is negligible. The said contention of the petitioner has been appreciated by this Court and this Court is of the considered view that there being a statutory prescription with regard to the acceptance of the bid value of the market put up for settlement by way of a tender process, the same has to be mandatorily followed and in the event, the bid value is found to be in excess of 10 % of the settlement value of the market for the last 03 (three) years, the bid as submitted would be mandated to be rejected. The extent by which the bid value has exceeded the 10% barrier would be inconsequential and what would be required to be considered is as to whether the bid value is within 10% of the settlement value of the market for the last 03 (three) years. Accordingly

the bid of the petitioner having been found to be in excess of 10% of the settlement value of the market computed for the last 03 (three) years, the rejection of the bid of the petitioner is not found to be erroneous.

14. Having drawn the said conclusion, this Court would now examine the further contentions raised by the petitioner that the bid submitted by the respondent no.7, was in violation of the requirements as set out in Clause 17 of the tender notice.

15. On a perusal of the bid submitted by the respondent no.7, this Court finds that the respondent no.7 had submitted a Debt Free Certificate from the Morigaon Zilla Parishad, a Tax Clearance Certificate from the Laharighat Anchalik Parishad, Debt Free Certificate from the Morigaon Goan Panchayat as well as a Bakijai Clearance Certificate from the Bakijai Branch of the Office of the District Commissioner, Morigaon, along with other requisite documents. Accordingly, it is found from the records that the respondent no.7, had submitted his bid along with the mandatory documents as stipulated in Clause 17 of the NIT. The respondent no.7 is also found to have submitted along with his bid Revenue Deposit Certificate pertaining to his land along with the Jamabandi copy of the land possessed by him. Accordingly, the respondent authorities had found that the value of the land offered by the petitioner to cover the bid value offered by the respondent no.7, in his bid and accordingly, this Court is of the considered view that there was no requirement for bringing on record a guarantor affidavit by the respondent no.7. The bid document in

Clause 5, thereof, requires the bidder to set out the details of the land possessed by him which would be offered as a co-lateral along with his bid. The petitioner is found to have set out the details of the land, in question, along with the due Non-Encumbrance Certificate. Accordingly, the value of the land, in question, being more than the bid value offered by the respondent no.7, the non submission of an affidavit from a guarantor would not render the bid of the respondent no.7, liable to be rejected.

16. In view of the above discussion, the grounds urged by the petitioner in the present proceedings towards assailing the rejection of his bid as well as the settlement of the market, in question, with the respondent no.7, is found to be not acceptable by this Court. Accordingly, the present writ petition is held to be devoid of any merit and the same stands dismissed. However, there would be no order as to costs.

17. The records produced by Ms. N. Bora, learned Standing Counsel, P&RD Department, Assam, be returned to her, forthwith.

JUDGE

Comparing Assistant

Ranu
Boro