

GAHC010257492025



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

Case No. : WA/378/2025

SHRI HEMENTA KUMAR NATH AND ANR
S/O BANAMALI NATH, R/O VILL. BALISATRA, P.O. AND P.S. BALISATRA,
DIST. NAGAON, ASSAM, PIN 781307

2: MRS HIMA DEKA BHARALI

W/O MRIDUL BHARALI
R/O BALISARA
P.O. BATADRAVA
DIST. NAGAON
ASSAM
PIN 78212

VERSUS

THE STATE OF ASSAM AND 4 ORS
REPRESENTED BY THE PRINCIPAL SECY. TO THE GOVT. OF ASSAM,
PANCHAYAT AND RURAL DEVELOPMENT DISPUR, GHY 6

2: THE COMMISSIONER AND SECY. TO THE GOVT. OF ASSAM

PANCHAYAT AND RURAL DEVELOPMENT
DISPUR
GHY 36

3: THE DIST. COMMISSIONER AND SECY. TO THE GOVT. OF ASSAM

PANCHAYAT AND RURAL DEVELOPMENT DEPTT.
DISPUR
GUWAHATI 6

4: THE CHIEF EXECUTIVE OFFICER

NAGAON ZILLA PARISHAD

NAGAON
PIN 782001

5:MD MAJAHARUL ISLAM

S/O NURUL HOQUE R/O UPAR DUMARIA
P.S. BATADRABA
DIST. NAGAON
ASSAM
PIN 78200

For the appellants : Mr. K.N. Choudhury, Sr. Advocate
Ms. R.R. Kakati, Advocate

For the respondents : Mr. S. Dutta, S.C., P&RD for
Respondent Nos.1, 2 & 4

Ms. R.B. Bora,
Govt. Advocate, Assam for
Respondent No.3

Mr. D.A. Kaiyum, Advocate for
Respondent No.5

– B E F O R E –

HON'BLE THE CHIEF JUSTICE MR. ASHUTOSH KUMAR

HON'BLE MR. JUSTICE ARUN DEV CHOUDHURY

28-11-2025

(Ashutosh Kumar, C.J.)

We have heard Mr. K.N. Choudhury, learned Senior Advocate assisted by Ms. R.R. Kakati, learned counsel for the appellants and Mr. S. Dutta, learned Standing Counsel, P& RD for respondent Nos.1, 2 and 4

and Mr. D.A. Kaiyum, learned counsel for private respondent No.5.

The appellants have questioned the impugned judgment passed by a learned Single Judge of this Court in WP(C) 6324/2025, whereby the contention raised on their behalf that the settlement of Balisatra Half Weekly market was wrongly made in favour of respondent No.5, has been rejected.

The appellants claim themselves to be the experienced bidder who had earlier managed the market successfully as settlees. They were all prepared to participate in the tender issued for the year 2025-2026 but they did not participate because of a confusing statement in the tender paper with respect to the minimum reserve price.

The half weekly market at Balisatra was to be settled by way of tender for which the reserve price was fixed at Rs.83,00,410/-. A note attached to the tender paper further clarified that in respect of a tender for all Bazaars/Ghats, the tender offering highest value shall be between the average of the settlement value of previous three years along with a cap of 10% increase over the average value and the bid would be accepted within the range so prescribed.

The contention of the appellants is that with the afore-noted wordings in Clause 12 of the tender documents, they and perhaps many others thought that the price was very high and, therefore, chose not to participate in the bid.

They have questioned the entire process on the ground that the

tender terms were vague and confusing which had the potency of preventing any meaningful participation.

The appellants further submit that with such confusing statement, there was no level playing field and the settlement of the market with respondent No.5 was on the minimum price even when the average of the last three years settlement price exceeded a crore of rupees.

Thus, the settlement, it is argued, also suffers from the vice of being unfair because there is a loss of public money.

Mr. S. Dutta, learned counsel for the respondent Nos.1, 2 and 4, however, expostulates that whatever may be the case, the learned Single Judge was justified in rejecting the contention of the appellants for the reason that they were non-participants. A non-participant has no locus to challenge the tender process.

There could be no dispute about this proposition but a non-participant can but challenge the process if he is able to demonstrate that the manner, in which the process has been concluded affects the public at large or that the terms of the tender are confusing, preventing any meaningful participation and in that event the objection of such a non-participant would fall in public law review and not private grievance.

The learned counsel appearing for the private respondent No.5 submits that he shall respond to this petition by the next date.

Mr. K.N. Choudhury, learned Senior Advocate for the appellants

also submits that he shall bring the case laws on the subject to justify his stand that the appellants, not being busybodies or interlopers, were prevented from participation because of the confusing reserve price and the note attached to tender paper stating the maximum limit, are entitled to question the process.

Re-notify on **19.12.2025**.

JUDGE

CHIEF JUSTICE

Comparing Assistant