

GAHC040008822025

2026:GAU-AP:15



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

WP(C)/243(AP)/2025

M/s L.Y. Enterprises,
Village- Sikarijo,
PO/PS_ Daporijo,
Dist.: Uppere Subansiri,
Arunachal Pradesh,
Pin-
791122
.....Petitioner

-Versus-

(i) The State of Arunachal Pradesh,
Represent by Secretary,
Department of Rural Development,
Government of Arunachal Pradesh,
Itanagar- 791111.

(ii) The Director,
Department of Rural Development,
Government of Arunachal Pradesh,
Itanagar.

(iii) The Joint Director (RE)
Department of Rural Development,
Government of Arunachal Pradesh,
Itanagar.

(iv) The Project Director,
Department of Rural Development,
Upper Subansiri

Dist.: Daporijo
(v) M/s RRR Enterprise
Proprietor- Shri Bimbo Notum Raji,
S/o Sarnu Raji,
Vill.: Battak,
PO/PS: Daporijo,
Dist.: Upper Subansiri,
Arunachal Pradesh,
Pin- 791122.
.....Respondents

- BEFORE -

HON'BLE MR. JUSTICE PRANJAL DAS

For the Petitioner : Mr. P.D. Nair
For the Respondent(s) : Mr. N. Ratan, Additional Advocate General
and Mr. D. Soki.

Date on which judgment was reserved : **03.11.2025**

Date of pronouncement of judgment : **09.01.2026**

Whether the pronouncement is of the
Operative part of the judgment? : **No**

Whether the full judgment has been
pronounced? : **NA**

(Pranjal Das, J)

Heard Mr. P.D. Nair, learned counsel for the petitioner. Also heard Mr. N. Ratan, learned Additional Advocate General for the State of Arunachal Pradesh/respondent Nos. 1 to 4 and Mr. D. Soki, learned counsel for the respondent No. 5.

2. The instant writ petition under Article 226 of the Constitution of India has been filed by the petitioner firm, being aggrieved, by the order dated 02-05-2025 passed by the respondent authorities with regard to NIT dated 11-04-2025, whereby the bid of the petitioner firm was rejected and that of the respondent No. 5/private respondent was accepted. The petitioner firm, after passing the technical evaluation, emerged as the lowest bidder during the financial evaluation; but its bid was rejected as the bid amount was stated to be a minus 10 percent, which was above the justified rate fixed at 7.31%. It is stated that the petitioner firm is a registered Class-II contractor under the Arunachal Pradesh Enlistment of Contractors in Works Department Rules, 2008 and that it has a valid trading license as well as GST registration.

3. It is further stated that the respondent No. 4, being Project Director, Rural Development Department issued a notice inviting tender NIT dated 11-04-2025 inviting bids from eligible Class-II contractors for the supply and procurement of materials under MGNREGA 2025-26 in respect of CD Block Chetam, Upper Subansiri district /district: Daporijo. The estimated cost of the work was Rs. 5,36,45,700/- and period of completion was 12 months.

4. It is stated that the bids were to be submitted online by 4 p.m. on 29-04-2025 and technical bids were to be opened and evaluated on 30-04-2025 at 10 a.m. and the financial bids of the technically qualified bidders were to be opened on 01-05-2025. It was also provided that the last date of bid validity was 06-06-2025. The

petitioner further stated that being interested in the contract, it participated in the tender process and 3 bidders including the petitioner submitted their bids and all of them were found to be technically qualified upon opening the technical bids on 30-04-2025.

5. It is further stated that on 01-05-2025, the financial bids of the 3 technically qualified bidders were opened and the petitioner firm was found to be the lowest bidder with a bid value of Rs. 4,82,81,129.93. The bid value of the second lowest bidder being of firm *RRR Enterprises*, respondent No. 5, was found to be Rs. 4,97,22,889.85. The petitioner further states that as the lowest bidder, it was in expectation of being issued the work order and the award of contract. But surprisingly, the respondents/authorities issued the impugned order dated 02-05-2025, whereby the bid of the petitioner was rejected for being 10% below the justified rate, whereas the rate quoted by the respondent No. 5 was approved as it was 7.31% below the justified rate. It is contended by the writ petitioner that the tender conditions did not provide for resorting to any justified rates and therefore, rejection of the petitioner's lowest bid on the ground of being lower than the justified rate amounted to resorting to a hidden criterion in the tender process and was therefore, arbitrary in nature and violative of Article 14 of the Constitution of India. It is contended that the CPWD manuals of 2014, 2019 and 2024, specifically provided that variations up to 10% of the justified rates can be accepted and only variations above 10% cannot be accepted and therefore, as the variation of the petitioner's bid was within the said 10%, it could not have been rejected on the stated ground.

6. It is contended by the writ petitioner that the impugned action of the respondent authorities in rejecting the lowest bid of the petitioner and awarding the contract to respondent No. 5 was arbitrary and biased and influenced by political considerations and therefore, in exercise of judicial review, the petitioner seeks interference with the impugned order by this Court in exercise of the writ jurisdiction under Article 226 of the Constitution of India. It is contended that in terms of Clause 14 (II) of the Special Conditions of the NIT, the contract has to be awarded to the lowest bidder as L1 and therefore by bypassing the petitioner's bid, the respondent authorities have violated the terms of the NIT and therefore, the same requires interference by this Court in this writ petition.

7. The respondent Nos. 1 to 4 i.e. the State respondents have filed a joint affidavit-in-opposition contesting the claim of the petitioner. It is contended that the NIT has two clauses being Clause 20 and Clause 25 of the special conditions of the additional conditions. It is contended by the respondent authorities that the department has to prepare the justified rate in terms of Clause 20 and thereby evaluate the financial bids of the parties and only in the event of failing to prepare a justified rate in terms of Clause 20, that the Clause 25 of the additional conditions come into operation - wherein a variation of 5% or 10% can be applicable. It is contended by the respondent authorities that the said clauses 20 and 25 of the additional conditions of the NIT do not run parallelly and that they are alternate to each other.

8. The respondents denied that there were any hidden criteria applied as the same was already mentioned in these additional conditions of the NIT. It is stated that the Project Director of three districts being *Papum Pare, Kamle and Upper Subansiri* prepared justified rates and for this reason, only in these three districts, the justified rate has been applied. It is further contended and stated by the respondent authorities that the justified rates are prepared based on the market value of each item and the Project Director in terms of Clause 20 of the additional conditions prepared justified rates for Chetam CD Block, Upper Subansiri district and submitted the justified rate before the Joint Director for approval on 11.04.2025 and the Joint Director approved the same on 21.04.2025 and the justified amount was fixed at Rs. 4,97,24,886.96/- and the percentage of the justified rate was fixed as at 7.31% vis-a-vis the value of the tender which is Rs 5,36,45,700/-.

9. It is stated by the respondent authorities that the bid of *LY Enterprises* was found to be 10% lower than the justified rate amount. The bid value of *M/s Salo Enterprise*, one of the three bidders who had passed the technical evaluation, was 7.23% which is 2/3% lower than the justified rate amount and the bid value of *M/s RRR enterprises*, found to be - 7.31% which is exactly the justified value rate. Accordingly, the bid of respondent No. 5 was accepted and that of the petitioner rejected and it is contended that there is no infirmity in the said decision making process.

10. The petitioner firm filed an affidavit-in-reply to the affidavit-in-

opposition of the respondent authorities in which the petitioner denied that Clauses 20 and 25 of the special conditions of the NIAP are mutually exclusive. The writ petitioner contended in the affidavit reply that Clause 20 specifically stated that the tender shall be governed by Clause 20.4.3 of the CPWD Works Manual and that, in terms of the said Clause 20.4.3 of the CPWD Manual variations are permissible over justified rates, as provided in Clause 20.4.3.2. It is stated that in terms of the said Clause 20.4.3.2, variations up to 5% can be ignored and variations up to 10% can be allowed for peculiar situations and circumstances. The writ petitioner contended that the justified rate value arrived at by the authorities was Rs. 4,97,24,886396/- and the bid value of the petitioner firm was Rs. 4,82,81,129.93 and that the same was 2.9% below the justified rate and therefore, the bid value was within the permissible limit as per Clause 20.4.3.2 of the CPWD manual applicable to the tender process in question.

11. In this context, it is further contended that as the lowest bid of the petitioner was within the permissible range therefore, the respondent authorities could not have rejected the bid of the petitioner. The petitioner also contended that respondent authorities were wrong in holding that only a bid which is equal to the justified rate of percentage of minus 7.31% has to be accepted and contends that it is an erroneous interpretation of the terms of processing the bids. The petitioner has also filed an additional affidavit taking recourse to certain guidelines issued by the Central Vigilance Commission about acceptance of lowest bids in government contracts.

12. It is contended by the petitioner that for tender works under Arunachal PWD and in terms of clause 20.4.3.2 of CPWD Works Manual 2014, the lowest tenderer within a variation of 5% over the justified rate have to be considered for award of work.

13. I have perused the pleadings and the relevant documents annexed with this writ petition.

14. The Learned Counsel for the writ petitioner submits that as the lowest bidder and having passed the technical evaluation, the petitioner firm was entitled in law to have been awarded the contract. Referring to the pleadings in this regard, it is submitted and contended that awarding the contract on the basis of justified rates amounted to resorting to a hidden criterion, which was outside the ambit of the NIT and therefore the same is arbitrary. It is submitted that awarding of the contract to respondent No. 5 was driven by extraneous considerations and also untenable in law. It is further submitted by the Learned Counsel for the writ petitioner that even going by the justified rate, the bid value of the petitioner firm was within the permissible range of justified rate and therefore, even applying the said justified rates, the petitioner firm was entitled to be awarded the contract. It is submitted by referring to pleadings in this regard that the respondent authorities made an error in its interpretation of the way the justified rates had to be applied in the instant case and as a result of such error also, the respondent authorities incorrectly awarded the contract in favour of respondent No. 5, instead of the petitioner firm. Seeking interference with the impugned order, the learned counsel for writ

petitioner submits that the impugned order should be set aside and the contract awarded in favour of the petitioner firm.

15. On the other hand, the learned counsel for the respondent authorities submits that the process of awarding the tender has been carried out within the ambit of law and due procedure and that there is no error in the said decision-making process. It is further submitted that there is no error in the awarding of the contract to the respondent No. 5 as the said firm was found eligible to be awarded the contract. It is submitted that there are absolutely no political or extraneous considerations involved in awarding of the contract in favor of the respondent No. 5. It is submitted that the justified rates were drawn up by following the proper procedure and process and bid of the petitioner firm was beyond the permissible range of the justified rate and therefore, the contract could not have been awarded in favor of the petitioner firm. The bid of respondent No. 5 was found to be technically qualified and as per the justified rate determined and hence, there is no infirmity in awarding of the contract in favor of the respondent No. 5. The Learned Counsel for the respondent No. 5/private respondent - supporting the submissions of the Learned Counsel for the Respondent Authorities - contends and submits that only the bid of respondent No. 5 was as per justified rates and therefore, it is the respondent No. 5 alone, who was eligible in law to be awarded the contract. It is contended and submitted that though the petitioner firm passed the technical evaluation and was the lowest bidder, but in terms of justified rates determined after following due process, the bid of petitioner firm was found to be beyond the

permissible range of justified rates. And hence, contract was rightfully awarded to respondent No. 5. It is also submitted on behalf of the respondent authorities as well as the private respondent that the writ petition is devoid of merits and should be dismissed.

16. I have considered the submissions of the learned counsel for the petitioner and the learned Additional Advocate General for the State respondents and the learned counsel for the responding No. 5.

17. As per the NIT dated 11-04-2025, the value of the tender was quantified at Rs 5,36,45,700/-. The respondent authorities prepared justified rates which was quantified at Rs 4,97,24,886.96 and in percentage terms it was - 7.31% below the value of the tender.

18. Before proceeding further, the additional conditions of the NIT may be seen, especially Clause 20 which states that this tender shall be governed by Clause 20.4.3 under Section 20 of the CPWD Works Manual for reasonability and competitiveness of rates.

19. The aforementioned Clause 20 may be reproduced herein below

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Clause 20: *This tender shall be governed by Clause 20.4.3 under Section 20 of the CPWD Works Manual for reasonability and competitiveness of rates.*

20. Next, I take up the CPWD Works Manual 2014 and go through the aforementioned Clause 20.4.3 which appears under the heading "*reasonability and competitiveness of rates.*" Thus, it follows from Clause 20.4.3 of section 20 of CPWD Works Manual 2014 that the

reasonableness of the rates has to be seen before acceptance of the tenders.

21. This is with a view to ensure that in the process of competitive bidding, unrealistic rates are not quoted by the bidders just to secure the contract. Clause 20.4.3 also provides that reasonableness of rates has to be assessed on the basis of justified rates and the mode of preparation of such justified rates has been laid down in detail in Clause 20.4.3.1.

22. For the purpose of the present adjudication, it is important to note that permissible variations over the justified rates are given in Clause 20.4.3.2, which may be reproduced herein below:-

20.4.3.2 Acceptance of tenders at justified rates with allowable variations. Apropos provisions under para 20.4.3 variation up to 5% over the justified rates may be ignored. Variation up to 10% may be allowed for peculiar situations and in special circumstances. Reasons for doing so shall be placed on record. Tenders above this limit should not be accepted.

23. Thus, I find that variation of 5% vis-à-vis the justified rates are allowed to be ignored and variations above 10% are held to be not acceptable and such bids have to be rejected. It is also provided that variations up to 10% can be allowed, but for peculiar situations and special circumstances and reasons for doing so have to be placed on record.

24. The whole objective behind this exercise, as mentioned earlier, is to ensure that uncompetitive bids are not accepted which can compromise the work. When other things are equal, the authorities

are encouraged to accept the lowest bidder in public works involving public money.

25. Now, I come back again to the facts of the instant case. As already stated, in terms of NIT dated 11-04-2025, the tender value is Rs.5,36,45,700/-. The justified rate is quantified at Rs.4,97,24,886/- and in percentage terms i.e. 7.21%. In monetary terms, the petitioner's bid was quantified at Rs. 4,82,81,129.93/- and in percentage terms, the said bid had a variation of 2.9% vis-à-vis the justified rate.

26. The respondent authorities have held that the bid of the petitioner firm was 10% below the justified rate and therefore, not acceptable in terms of the applicable guidelines. However, I find that the petitioner firm in its affidavit-in-reply has contended that the variation of the petitioner firm is 2.9% below the justified rate and therefore, was within the permissible limit as per Clause 20.4.3.2. It is an admitted position that the bid value of the petitioner firm was the lowest financial bid within bracket L1 vis-à-vis the bid of the respondent No. 5 which was Rs. 4,97,22,889.85/-.

27. Upon giving my consideration to the entire matter in the context of the applicable guidelines of the CPWD manual and the additional conditions of the NIT - I come to the **considered opinion** that the respondent authorities made an error in holding that the bid of the petitioner was 10% below the justified rate; whereas, in fact, it was 2.9% below the justified rate and within the permissible variation bracket of 5% in terms of Clause 20.4.3.2 of the CPWD Works Manual

2014.

28. Further, I also find force in the contention of the petitioner firm made through its affidavit in reply that the respondent authorities perhaps erred in holding the view that a firm whose bid value is equal to the justified rate percentage only has to be accepted. In the tender process - the petitioner firm was the L1 lowest bidder in financial terms and its bid value of Rs. 4,82,81,129.93/- was approximately 2.9% below the justified rate (*Rs. 4,97,22,889.85/-*) and in terms of the applicable guidelines of the CPWD manual (*Clause 20.4.3.2*) – was within permissible range.

29. The bid of the petitioner was thus within the permissible variation range in terms of the guidelines. Hence, the respondent authorities were obligated in law and in terms of the tender conditions to accept the bid of the petitioner firm, rather than that of the respondent No. 5.

30. It is well settled that evaluation of tender involves certain technical and financial expertise as well and the courts in exercise of judicial review do not and should not easily substitute its views for the views of the authorities who might be having technical expertise. However, in exercise of such judicial review, if examination of the decision-making process and its legal dimensions reveals errors and arbitrariness, the same is required to be interfered with in exercise of writ jurisdiction. Otherwise, the same would be violative of Article 14 of the Constitution of India.

31. Consequently, the writ petition is allowed and the following

directions are issued :-

(i) The order dated 02-05-2025 passed by the respondent authorities awarding the contract in favor of respondent no. 5 vis-a-vis the NIT dated 11-04-2025 is hereby **set aside**.

(ii) The respondent authority shall award the contract - *in terms of NIT dated 11-04-2025* – in favor of the petitioner firm, as it has been found to be lawfully entitled to be awarded the contract.

32. The writ petition stands **allowed** and **disposed of**.

JUDGE

Comparing Assistant