

GAHC010227822024



2026:GAU-AS:7812-DB

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

Case No. : WA/386/2024

DIGANTA BORAH,
S/O LATE SARAT CHANDRA BORAH,
RESIDENT OF SIVAMANDIR PATH, KHANAPARA, GUWAHATI 781022

VERSUS

1.THE STATE OF ASSAM,
REPRESENTED BY THE PRINCIPAL SECRETARY, GOVT OF ASSAM,
ANIMAL HUSBANDRY AND VETERINARY DEPARTMENT,
DISPUR, ASSAM, GHY-06.

2:THE DIRECTOR,
ANIMAL HUSBANDRY AND VETERINARY DEPARTMENT,
ASSAM, CHENIKUTHI, GUWAHATI-03.

3:THE BID PROCESS MANAGEMENT COMMITTEE,
REPRESENTED BY ITS CHAIRMAN, OFFICE OF THE DIRECTOR,
ANIMAL HUSBANDRY AND VETERINARY DEPARTMENT,
CHENIKUTHI, GUWAHATI-03, ASSAM.

4:THE DISTRICT ANIMAL HUSBANDRY AND VETERINARY OFFICER,
NALBARI, NALBARI, ASSAM, PIN-781335.

5:BALEN ROY MEDHI,
S/O LT. RAJMOHAN ROYMEDHI ,
R/O BHARALUMUKH, KUMARPARA, K.R.B. ROAD, GHY-09,
P.S.-BHARALUMUKH, DIST-KAMRUP (M), ASSAM, PIN-78100

Linked Case : WA/427/2024

HEMANTA KUMAR BORAH,
S/O SARAT CHANDRA BORAH,
RESIDENT OF SIVAMANDIR PATH, KHANAPARA, GUWAHATI- 781022.

VERSUS

1.THE STATE OF ASSAM,
REPRESENTED BY THE PRINCIPAL SECRETARY, GOVT OF ASSAM,
ANIMAL HUSBANDRY AND VETERINARY DEPARTMENT,
DISPUR, ASSAM, GHY-06.

2:THE DIRECTOR,
ANIMAL HUSBANDRY AND VETERINARY DEPARTMENT,
ASSAM, CHENIKUTHI, GUWAHATI-03.

3:THE BID PROCESS MANAGEMENT COMMITTEE,
REPRESENTED BY ITS CHAIRMAN, OFFICE OF THE DIRECTOR,
ANIMAL HUSBANDRY AND VETERINARY DEPARTMENT,
CHENIKUTHI, GUWAHATI-03, ASSAM.

4:THE DISTRICT ANIMAL HUSBANDRY AND VETERINARY OFFICER,
NALBARI, NALBARI, ASSAM, PIN-781335.

5:BALEN ROY MEDHI,
S/O LT. RAJMOHAN ROYMEDHI,
R/O BHARALUMUKH, KUMARPARA, K.R.B. ROAD, GHY-09,
P.S.-BHARALUMUKH, DIST-KAMRUP (M), ASSAM, PIN-781009.

Linked Case : WA/82/2025

1.THE STATE OF ASSAM,
REP. BY THE PRINCIPAL SECRETARY TO THE GOVT. OF ASSAM,
ANIMAL HUSBANDRY AND VETERINARY DEPARTMENT,
DISPUR, ASSAM, GHY-781006.

2: THE DIRECTOR OF ANIMAL HUSBANDRY AND VETERINARY
DEPARTMENT, ASSAM, CHENIKUTHI, GUWAHATI-03.

3: THE BID PROCESS MANAGEMENT COMMITTEE,
REP. BY ITS CHAIRMAN, OFFICE OF THE DIRECTOR OF ANIMAL
HUSBANDRY AND VETERINARY DEPARTMENT, ASSAM,
CHENIKUTHI, GUWAHATI-03, ASSAM.

4: THE DISTRICT ANIMAL HUSBANDRY AND VETERINARY OFFICER,
NALBARI, ASSAM, PIN-781335.

VERSUS

1.BALEN ROY MEDHI,
S/O- LATE RAJMOHAN ROYMEDHI,
R/O- BHARALUMUKH, KUMARPARA, KRB ROAD, GHY-09,
P.S- BHARALUMUKH, DIST- KAMRUP (M), ASSAM, PIN-781009.

2:HEMANTA KUMAR BORAH,
RESIDENT OF SIVAMANDIR PATH, KHANAPARA, GUWAHATI-22, ASSAM.

Linked Case : WA/428/2024

HEMANTA KUMAR BORAH,
S/O SARAT CHANDRA BORAH,
RESIDENT OF SIVAMANDIR PATH,
KHANAPARA GUWAHATI 781022.

VERSUS

1.THE STATE OF ASSAM,
REPRESENTED BY THE PRINCIPAL SECRETARY, GOVT OF ASSAM,
ANIMAL HUSBANDRY AND VETERINARY DEPARTMENT,
DISPUR, ASSAM, GHY-06.

2:THE DIRECTOR,
ANIMAL HUSBANDRY AND VETERINARY DEPARTMENT, ASSAM,
CHENIKUTHI, GUWAHATI-03.

3:THE BID PROCESS MANAGEMENT COMMITTEE,
REPRESENTED BY ITS CHAIRMAN, OFFICE OF THE DIRECTOR,
ANIMAL HUSBANDRY AND VETERINARY DEPARTMENT,
CHENIKUTHI, GUWAHATI-03, ASSAM.

4:THE DISTRICT ANIMAL HUSBANDRY AND VETERINARY OFFICER,
NALBARI, NALBARI, ASSAM, PIN-781335.

5:BALEN ROY MEDHI,
S/O LT. RAJMOHAN ROYMEDHI,
R/O BHARALUMUKH, KUMARPARA, K.R.B. ROAD, GHY-09,
P.S.-BHARALUMUKH, DIST-KAMRUP (M), ASSAM, PIN-781009.

Linked Case : WA/393/2024

1.THE STATE OF ASSAM,
REP. BY THE PRINCIPAL SECRETARY TO THE GOVT. OF ASSAM,
ANIMAL HUSBANDRY AND VETERINARY DEPARTMENT,
DISPUR, ASSAM, GHY-06.

2: THE DIRECTOR OF ANIMAL HUSBANDRY AND VETERINARY DEPARTMENT, ASSAM, CHENIKUTHI, GUWAHATI-03.

3: THE BID PROCESS MANAGEMENT COMMITTEE,
REP. BY ITS CHAIRMAN, OFFICE OF THE DIRECTOR OF ANIMAL HUSBANDRY AND VETERINARY DEPARTMENT, ASSAM, CHENIKUTHI, GUWAHATI-03, ASSAM

4: THE DISTRICT ANIMAL HUSBANDRY AND VETERINARY OFFICER, NALBARI, ASSAM, PIN-781335.

VERSUS

1.BALEN ROY MEDHI,
S/O- LATE RAJMOHAN ROYMEDHI,
R/O- BHARALUMUKH, KUMARPARA, KRB ROAD, GHY-09,
P.S- BHARALUMUKH, DIST- KAMRUP (M), ASSAM, PIN-781009.

2:DIGANTA BORAH,
RESIDENT OF SIVAMANDIR PATH, KHANAPARA, GUWAHATI-22, ASSAM.

Linked Case : WA/41/2025

1.THE STATE OF ASSAM,
REP. BY THE PRINCIPAL SECRETARY TO THE GOVT. OF ASSAM,
ANIMAL HUSBANDRY AND VETERINARY DEPARTMENT,
DISPUR,ASSAM, GHY-781006.

2: THE DIRECTOR OF ANIMAL HUSBANDRY AND VETERINARY DEPARTMENT, ASSAM, CHENIKUTHI, GUWAHATI-03.

3: THE BID PROCESS MANAGEMENT COMMITTEE,
REP. BY ITS CHAIRMAN, OFFICE OF THE DIRECTOR OF ANIMAL HUSBANDRY AND VETERINARY DEPARTMENT,
ASSAM, CHENIKUTHI, GUWAHATI-03, ASSAM.

4: THE DISTRICT ANIMAL HUSBANDRY AND VETERINARY OFFICER, NALBARI, ASSAM, PIN-781335.

VERSUS

1.BALEN ROY MEDHI,
S/O- LATE RAJMOHAN ROYMEDHI,
R/O- BHARALUMUKH, KUMARPARA, KRB ROAD, GHY-09,
P.S- BHARALUMUKH, DIST- KAMRUP (M), ASSAM, PIN-781009.

2:DIGANTA BORAH,
RESIDENT OF SIVAMANDIR PATH, KHANAPARA, GUWAHATI-781022,
ASSAM.

Linked Case : WA/381/2024

1.THE STATE OF ASSAM,
REP. BY THE PRINCIPAL SECRETARY TO THE GOVT. OF ASSAM,
ANIMAL HUSBANDRY AND VETERINARY DEPARTMENT,
DISPUR, ASSAM, GHY-06.

2: THE DIRECTOR,
ANIMAL HUSBANDRY AND VETERINARY DEPARTMENT, ASSAM,
CHENIKUTHI, GUWAHATI-03.

3: THE BID PROCESS MANAGEMENT COMMITTEE,
REPRESENTED BY THE CHAIRMAN, OFFICE OF THE DIRECTOR OF ANIMAL
HUSBANDRY AND VETERINARY DEPARTMENT, ASSAM, CHENIKUTHI,
GUWAHATI-03, ASSAM.

4: THE DISTRICT ANIMAL HUSBANDRY AND VETERINARY OFFICER,
NALBARI, ASSAM.

VERSUS

1.BALEN ROY MEDHI,
S/O- LATE RAJMOHAN ROYMEDHI,
R/O- BHARALUMUKH, KUMARPARA, KRB ROAD, GHY-09,
P.S- BHARALUMUKH, DIST- KAMRUP (M), ASSAM, PIN-781009.

2:HEMANTA KUMAR BORAH,
RESIDENT OF SIVAMANDIR PATH, KHANAPARA, GUWAHATI-22, ASSAM.

Linked Case : WA/397/2024

DIGANTA BORAH,
S/O LATE SARAT CHANDRA BORAH,
RESIDENT OF SIVAMANDIR PATH, KHANAPARA, GUWAHATI- 781022.

VERSUS

1.THE STATE OF ASSAM,
REPRESENTED BY THE PRINCIPAL SECRETARY, GOVT OF ASSAM,
ANIMAL HUSBANDRY AND VETERINARY DEPARTMENT,
DISPUR, ASSAM, GHY-06.

2:THE DIRECTOR,
ANIMAL HUSBANDRY AND VETERINARY DEPARTMENT,

ASSAM, CHENIKUTHI, GUWAHATI-03,

3:THE BID PROCESS MANAGEMENT COMMITTEE,
REPRESENTED BY ITS CHAIRMAN, OFFICE OF THE DIRECTOR,
ANIMAL HUSBANDRY AND VETERINARY DEPARTMENT,
CHENIKUTHI, GUWAHATI-03, ASSAM.

4:THE DISTRICT ANIMAL HUSBANDRY AND VETERINARY OFFICER,
NALBARI, ASSAM, PIN-781335.

5:BALEN ROY MEDHI,
S/O LT. RAJMOHAN ROYMEDHI ,
R/O BHARALUMUKH, KUMARPARA, K.R.B. ROAD, GHY-09,
P.S.-BHARALUMUKH, DIST-KAMRUP (M), ASSAM, PIN-781009.

Linked Case : WA/388/2024

BOBITA BORAH,
W/O SRI JAYANTA BORAH, RESIDENT OF SIVAMANDIR PATH,
KHANAPARA, GUWAHATI-781022.

VERSUS

1. THE STATE OF ASSAM,
REPRESENTED BY THE PRINCIPAL SECRETARY, GOVT OF ASSAM,
ANIMAL HUSBANDRY AND VETERINARY DEPARTMENT,
DISPUR, ASSAM, GHY-06.

2:THE DIRECTOR,
ANIMAL HUSBANDRY AND VETERINARY DEPARTMENT,
ASSAM, CHENIKUTHI, GUWAHATI-03.

3:THE BID PROCESS MANAGEMENT COMMITTEE,
REPRESENTED BY ITS CHAIRMAN, OFFICE OF THE DIRECTOR,
ANIMAL HUSBANDRY AND VETERINARY DEPARTMENT,
CHENIKUTHI, GUWAHATI-03, ASSAM.

4:THE DISTRICT ANIMAL HUSBANDRY AND VETERINARY OFFICER
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S/O LT. RAJMOHAN ROYMEDHI,
R/O BHARALUMUKH, KUMARPARA, K.R.B. ROAD, GHY-09,
P.S.-BHARALUMUKH, DIST-KAMRUP (M), ASSAM, PIN-781009.

– BEFORE –

HON'BLE THE CHIEF JUSTICE MR. ASHUTOSH KUMAR

HON'BLE MR. JUSTICE ARUN DEV CHOUDHURY

For the Appellant(s) : Mr. K.N. Choudhury, Senior Advocate, assisted by Mr. R.M. Deka and Mr. D.J. Das, Advocates in W.A. No.386/ 2024, W.A. No.388/2024, W.A. No.397/2024, W.A. No.427/2024 & W.A. No. 428/ 2024.

: Mr. D. Nath, Senior Government Advocate, Assam in W.A. No.381/2024, W.A. No.393/2024, W.A. No.41/ 2025 & W.A. No.82/2025.

For the respondent(s) : Mr. J. Kalita, Advocate for respondent No.5 in W.A. No.386/2024, W.A. No.388/ 2024, W.A. No.397/2024, W.A. No.427/2024 and W.A. No.428/2024 and for respondent No.1 in W.A. No.381/2024, W.A. No.393/ 2024, W.A. No.41/2025 & W.A. No.82/2025.

: Mr. D. Nath, Senior Government Advocate, Assam in W.A. No.428/2024, W.A. No.427/2024, W.A. No.397/ 2024, W.A. No.388/2024 and W.A. No.386/2024.

Date of Hearing & Judgment : **04.06.2026.**

JUDGMENT & ORDER (ORAL)

(Ashutosh Kumar, CJ)

These set of writ appeals have been heard together and are being disposed off by this common judgment.

2. We have heard Mr. K.N. Choudhury, learned Senior Advocate,

assisted by Mr. R.M. Deka and Mr. D.J. Das, learned Advocates for the appellants in WA No.386/2024; WA No.388/2024; WA No.397/2024; WA No.427/2024 and WA No.428/2024; Mr. D. Nath, learned Senior Government Advocate, Assam for the appellants in WA Nos.381/2024; WA No.393/2024; WA No.41/2025 and WA No.82/2025; and Mr. J. Kalita, learned Advocate for respondent No.5 in WA No.386/2024; WA No.388/2024; WA No.397/2024; WA No.427/2024 and WA No.428/2024 and for respondent No.1 in WA No.381/2024; WA No.393/2024; WA No.41/2025 & WA No.82/2025.

3. By the impugned judgment dated 27.09.2024 passed in WP(C) No.1069/2024 and connected writ petitions, a learned Single Judge of this Court has opined that the process adopted for allotting the works to the appellants in WA No.386/2024; WA No.388/2024; WA No.397/2024; WA No.427/2024 and WA No.428/2024, was not in accordance with law and thus has directed that the work orders dated 06.01.2024 be not acted upon henceforth. However, it was clarified that since the work was carried out against such work orders, the balance work should be given to another eligible bidder, who would qualify for the work pursuant to the tender process.

4. In one of the writ petitions [WP(C) No.998/2024] before the Court, since there was no progress against the work order, it was directed that the work be allotted to the eligible bidder in the same tender process.

The afore-noted judgment was passed in five of the writ

petitions.

5. These cases involve a public tender issued by the Animal Husbandry and Veterinary Department, Assam for works under RIDF-XXVII, relating to construction of Assam Type Sub-Centre Building with Electrification, Water Supply and Sanitary Works etc., in the district of Nalbari.

The estimated cost of the work was Rs.33,71,000/- with a completion period of 180 days only. The tender followed a two-bid system, technical and financial.

6. The appellants in WA No.386/2024; WA No.388/2024; WA No.397/2024; WA No.427/2024 and WA No.428/2024, who are registered contractors, participated in the tender process and emerged as the lowest bidders. The rate offered by them was more than 15% below the current Detailed Schedule Rate (DSR).

7. Clause 2.A.(g) of the bid document specified that any bidder who quotes beyond 15% below the DSR must submit with their bids the detailed justification, rate analysis and photographic evidence of its infrastructure and the on-going projects. Such bids could be rejected by the Bid Process Management Committee if the justification for quoting such a lower rate was found incorrect, or that the claim of such bidder is not found to be correct on physical verification.

8. According to the appellants in WA No.386/2024; WA No.388/2024; WA No.397/2024; WA No.427/2024 and WA No.428/2024,

they had submitted the required documents for the evaluation of their bids.

9. After preliminary technical evaluation, the Bid Process Management Committee had directed a physical verification by an Engineer of the Department, who had submitted a report confirming the correctness of the claims of the appellants in the afore-noted writ appeals.

10. Based on such report, the Bid Process Management Committee recommended awarding the works to the appellants in WA No.386/2024, WA No.388/2024, WA No.397/2024, WA No.427/2024 and WA No.428/2024, who were adjudged as L-1 bidders but subject to depositing an Additional Performance Guarantee of 12% and an undertaking that the work shall be completed within time.

Pursuant to this, the formal work orders were issued on 06.01.2024.

11. The claim of the appellants, as on date, is that more than 70% of the work has been completed.

12. One Balen Roy Medhi, an unsuccessful bidder, who is the private respondent in these set of appeals, questioned the issuance of the work orders to the appellants by filing writ petitions [WP(C) No.1069/2024, WP(C) No.1178/2024, WP(C) No.998/2024, WP(C) No.996/2024 and WP(C) No.1071/2024] before this Court.

13. The contentions raised by him before the learned Single Judge was that there were no proper justification of quoting such low rates and it was declared to be in order because of the collusion of the State. The physical verification process which was undertaken was not in accordance with the settled procedure. It was also alleged that no proper scrutiny was made.

14. Apart from this, there were various other objections raised by Mr. Medhi with respect to the validity of the supporting documents submitted by the appellants, especially quotation from Maa Enterprise and the GSTIN quotes as well as the identical photographs used for multiple sites with respect to the physical verification.

15. The learned Single Judge sustained those objections and held that it was incorrect to accept a quotation from one of the appellants with a GSTIN, which did not belong to it. It was further held by the learned Single Judge that the clarificatory letter from the Maa Enterprise was also not worth accepting, as it was on a plain piece of paper and without any letter-head. There was no seal of the firm either on such clarificatory letter.

The learned Single Judge relied on the evidence produced by Mr. Medhi/respondent herein that the photographs submitted as evidence by the Engineer of the Department to demonstrate that the claim of the appellants were genuine, were identical across multiple unrelated work-sites in different locations. Those photographs, the learned Single Judge held, ought not to have been accepted as an

evidentiary proof because there was no geo-tagging and those also lacked *bona fides*.

The learned Single Judge therefore, concluded that the entire verification process with respect to the low rate quoted by the appellants *prima facie* appeared to be pre-determined and biased in favour of the appellants. There was no scrutiny of the quotation. That way, it was held that the decision making was improper and the Department had failed in its higher obligation to verify the documents properly.

16. Mr. K.N. Choudhury, learned Senior Advocate for the appellants in WA No.386/2024, WA No.388/2024, WA No.397/2024, WA No.427/2024 and WA No.428/2024 and Mr. D. Nath, learned Senior Government Advocate, Assam for the appellants in WA Nos.381/2024, WA No.393/2024, WA No.41/2025 and WA No.82/2025, have submitted that the judgment impugned is not fit to be sustained in the eyes of law for the manifest error in appreciating the law with regard to interference in tender processes. It has been urged that as per Clause 2.A.(g) of the bid document, the bidders quoting a bid 15% below the current DSR were obligated to submit in detail with their bids a proper rate analysis along with the evidence, as noted above, in justification of their quoting low rates. The appellants, in compliance of the afore-noted requirement, had submitted the justification for quoting a rate below 15% with photographic evidence. A field verification was also conducted and the appellants were recommended as L-1 bidders.

17. With such background facts, it has been argued that the

learned Single Judge ought not to have made such interference at the instance of an unsuccessful bidder, whose offer was much higher than that of the appellants.

It was submitted that the judgment impugned smacked of an appellate order against the decision making of the tender floating authority, especially, the Committee which had evaluated the bids and which Committee comprised of experts in the domain subject.

18 Factually also, the judgment has been questioned on the ground that for a successful bidder, he was required to have his GST registration certificate with up-to-date challan. The appellant was a bidder, not the Maa Enterprise, whose possession of a valid GSTIN was not relevant for deciding the issue. It was also argued that the GSTIN of the material supplier was not mandatory. What was essential was the rate of the materials offered by him and its availability.

19. Though the learned Single Judge, vide the impugned judgment has spelt out the correct law on the subject that in matters of tender, there ought to be least interference unless the decision making is infested with *mala fides* and unreasonableness; but interference has been made at a stage when more than 70% of the work had already been completed.

20. It was very unusual to have raised eyebrows over the appellants coming from the same family. This is not something new in the business world and, on that account only, the decision making and the

issuance of the work orders ought not to have been faulted with.

21. The advisable restraint in exercise of judicial review in such matters, it has been argued, has been thrown to the winds and the judgments of the Supreme Court in ***Afcon Infrastructure Limited –Vs- Nagpur Metro Rail Corporation Limited & Anr.:: (2016) 16 SCC 818*** and ***Bharat Coking Coal Limited –Vs- A.R.M. Dev Prabha & Ors. :: (2020) 16 SCC 759*** rendered on similar issues have been completely disregarded.

22. Mr. J. Kalita, learned Advocate representing the Private respondent has submitted that a false assertion was made by the State that the payments have been made for the 70% of the works. The fallacy in such statement is evident on the face of it. In such a short span of time, more than 70% work is claimed to have been completed, which is apparently an incorrect statement. He agrees that the work did progress against the respective work orders, but the major works are still incomplete. Under such circumstances, the State would have had no justification to release the payments without proper certification in the measurement book by the concerned Engineer of the Department. Thus, a bald statement has been made before the Writ Court as also before this Court regarding completion of the 70% of the works and payments having been made to the contractor.

23. The appellants have never questioned such statement nor do we understand the importance of such issue especially when, for the lower rates quoted by the appellants in WA No.386/2024, WA No.388/2024, WA No.397/2024, WA No.427/2024 and WA No.428/2024, the

procedure delineated in the tender document was followed and the justifications along with rate analysis and photographic evidence submitted by the appellants were accepted by the Bid Processing Management Committee.

24. Questioning the verification report as collusive clearly appears to be an overarching allegation of an unsuccessful bidder, which ought not to have been taken into account for interfering with the work orders at a stage when the construction process had already started.

The net result is that the speed of the work has been halted.

25. What we are surprised at is that despite the stay order by this Court on the operation of the judgment of the learned Single Judge, the work was not completed in the meanwhile.

26. Mr. D. Nath, learned Senior Government Advocate, Assam, has submitted that for some reason or the other, or perhaps because of the Democles' sword hanging over the head of the appellants in WA No.386/2024, WA No.388/2024, WA No.397/2024, WA No.427/2024 and WA No.428/2024, the work could not be completed despite the Department giving green signal to those appellants to proceed ahead. However, in view of the extended time given to them, the work is likely to be completed by the time-limit so extended i.e. till 30.06.2026.

27. We thus hold the interference by the learned Single Judge, at that stage, on the grounds referred to above with the work order, to be

wholly unjustified.

28. We, therefore, set aside the judgment impugned in the present set of appeals and direct that the entire work should be completed as per the specifications, within the time granted by the Department.

29. All these set of appeals stand disposed off accordingly.

JUDGE

CHIEF JUSTICE

Comparing Assistant