

(2025) 11 GAU CK 1781
In the Gauhati High Court
Case No : WP(C) Of 6256 Of 2025

H.H. Co Contractor And Supplier

APPELLANT

Vs

Union Of India And 5 Ors

RESPONDENT

Date of Decision : 04-11-2025

Acts Referred:

Citation : (2025) 11 GAU CK 1781

Hon'ble Judges : Devashis Baruah, J

Bench : Single Bench

Advocate : B.P. Borah, B. Sharma

Final Decision : Dismissed

Judgement

Devashis Baruah, J

1. Heard Mr. B.P. Borah, the learned counsel appearing on behalf of the petitioner. Ms. B. Sharma, the learned CGC appears on behalf of the respondent Nos. 1 to 4.

2. The petitioner herein has approached this Court challenging the information that the petitioner has been found technically unsuitable in respect to the Tender No. CE-CON-DK-MIS-2025-02 on the ground of altered format of Annexure-V, para-8 submitted by the petitioner.

3. The facts leading to the filing of the present writ petition would show that a Notice Inviting Tender dated 26.06.2025 was issued thereby inviting bidders for carrying out the work pertaining to Development of staff Qtr., boundary wall, construction of drain, water supply arrangement at Shokhuvi, passenger circulating area, raising of platform no-2, approach road, staff qtr., yard drain, boundary wall, Over Head Tank at Molvom, Protection work and other ancillary work between Dhansiri-Molvom section in connection with Dimapur-Kohima, New BG Railway line project.

4. The petitioner in pursuance to the said tender process submitted its bid along

with various other bidders. However, upon carrying out the technical evaluation, the petitioner was informed vide an e-mail dated 23.10.2025 that its techno-commercial bid was found technically unsuitable on the ground that the petitioner submitted an altered format of Annexure-V, para-8. The petitioner herein being aggrieved by such rejection has approached this Court by filing the present writ petition.

5. Mr. B.P. Borah, the learned counsel appearing on behalf of the petitioner submitted that the Annexure-V so submitted by the petitioner is in accordance with the format stipulated in the Notice Inviting Tender and as such, the respondents were not justified in holding that the petitioner's bid was technically not responsive.

6. Taking into account the said, this Court while taking up the instant matter prior to lunch recess sought for instruction(s) from the Railway Authorities, as to whether, the contentions so made by the learned counsel appearing on behalf of the petitioner that the petitioner had submitted the Annexure-V document as per the format stipulated in the Notice Inviting Tender is correct.

7. Ms. B. Sharma, the learned CGC appearing on behalf of the respondents obtained the necessary instructions and placed the same before this Court after the lunch recess. The said instructions are kept on record and marked with the letter "X".

8. From a perusal of the instructions, the Respondent Authorities have apprised this Court that the petitioner had tampered/modified the standard format of Annexure-V as per the tender documents, more particularly, paragraph No. 8. It was also mentioned that as per Annexure-J which was submitted by the petitioner, if a bidder tampers or modifies the tender forms downloaded from the internet site www.IREPS.gov.in, the tender would be summarily rejected and it is in terms with Annexure-J, the technical bid of the petitioner was held to be invalid and rejected.

9. Taking into account the above, this Court finds it relevant to take note of the stipulations contained at paragraph No. 8 of Annexure-V, as per the format provided by the Railway Authorities. The said stipulations being relevant is reproduced herein under:

"8. I/we understand that if the contents of the certificate submitted by us are found to be forged/false at any time during process for evaluation of tenders, it shall lead to forfeiture of the Bid Security and may also lead to any other action provided in the contract including banning of business for a period of upto two year. Further, I/we (insert name of the tenderer) **_____ and all my/our constituents understand that my/our offer shall be summarily rejected."

10. In the backdrop of the said, this Court finds it relevant to take note of the certificate submitted by the petitioner in terms with Annexure-V, more particularly, paragraph No. 8 therein. The said paragraph in Annexure-V

submitted by the petitioner reads as under:

"8. I/we understand that if the contents of the certificate submitted by us are found to be forged/false or incorrect at any time during process for evaluation of tenders, it shall lead to forfeiture of the Bid Security besides banning of business for a period of upto two year. Further, I/we (insert name of the tenderer) "M/s. CHISHO-H. H. Co. JV" and all my/our constituents understand that my/our offer shall be summarily rejected."

11. From a conjoint reading of the above quoted paragraphs as contained in paragraph No. 8 of Annexure-V stipulated by the Railway Authorities and paragraph No. 8 of Annexure-V submitted by the petitioner, it would be seen that in the stipulation contained in paragraph No. 8 of Annexure-V provided by the Railway Authorities, it is mentioned "it shall lead to forfeiture of Bid Security and may also lead to any other action provided in the contract including banning of business for a period of upto two year". On the other hand, the stipulation contained in paragraph No. 8 of Annexure- V submitted by the petitioner, it is mentioned "it shall lead to forfeiture of the Bid Security besides banning of business for a period of upto two year". The words, "and may also lead to any other action provided in the contract including" is missing in paragraph No. 8 of Annexure-V submitted by the petitioner.

12. This Court further takes note of Annexure-J which was submitted by the petitioner wherein the petitioner gave declarations which reads as under:

" Declaration_ against downloading the tender document from website

(a) I/We have downloaded the tender form from the Internet site www.IREPS.Gov.in and I/We have not tampered / modified the tender forms in any manner. In case, if the same is found to be tampered / modified I/We understand that my/our tender will be summarily rejected, and I/we am/are liable to be banned from doing business with Railways and/or prosecuted.

(b) I hereby declare that all the details as required to be furnished from our side to the Railways, while accessing/downloading the tender document from website have been furnished fully and correctly."

13. From the above quoted declaration so submitted in terms with Annexure-J, it is the very undertaking given by the petitioner that they had not tampered/ modified the tender forms in any manner and if the same is found to be tampered/modified, they understand that their tender would be summarily rejected.

14. Considering the above, it is the opinion of this Court that the Respondent Authorities have rightly rejected the bid of the petitioner and accordingly, this Court does not find the present case to be a fit case for exercising the powers of judicial review.

15. In that view of the matter, the instant writ petition, therefore, stands

dismissed. However, in the facts of the instant case, this Court is not inclined to impose costs.