
(1982) 07 GAU CK 0010
In the Gauhati High Court
Case No : Civil Rule No. 434 of 1982

Kinaram Das

APPELLANT

Vs

State of Assam and Others

RESPONDENT

Date of Decision : 09-07-1982

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : AIR 1983 Guw 45

Hon'ble Judges : T.C. Das, J;K.M. Lahiri, J

Bench : Division Bench

Advocate : D.K. Talukdar, for the Appellant; D.N. Choudhury, Sr. Govt. Advocate, for the Respondent

Final Decision : Allowed

Judgement

Lahiri, J.—The petitioner prays for quashing of the appellate order dated 12-4-1982 passed by the Conservator of Forests, Northern Assam Circle, Tezpur whereby "the Conservator", respondent No. 2 set aside the order of Divisional Forest Officer, Nowgong (respondent No. 3).

2. The intrinsic facts necessary for the purpose of the writ application may be let out thus: Simultola Cotton Mahal No. 4 was advertised for sale under the Assam Sale of Forest Coupes and Mahal Rules, 1977, "the Rules" for short. Respondent No. 4 Abdul Sobhan offered only Rs. 13,101 whereas the petitioner offered Rs. 24,151. The petitioner who is a member of the Listed Class made the offer in accordance with the provision of the Rules. It was in writing and his offer was accepted by the Divisional Forest Officer, ("D.F.O." for short), vide Annexure I. The period of Settlement is from 1-3-82 to 31-8-82. However, before the petitioner could reap the benefit of the order of the D.F.O. respondent No. 4 preferred an appeal under Rule 9 of "the Rules" and impugned order at Annexure II passed by "the Conservator", on the face of it, is illegal and void. The petitioner had written in his tender form that his offer was Rs. 24,151, but while writing in words, it was stated that the offer was "Rupees twenty-four thousand

one hundred and fifty five only".

The petitioner's offer of Rs. 24,151 was clearly understood by the D.F.O. who accepted it at that price. It is absolutely clear that the offer was Rs. 24,151. Assuming that there was any error, it was only a technical and trivial arithmetical error which could have been allowed to be corrected at any time. For such trivial technical error, no officer should emburden the Government to accept a very low tender and cause loss of Government revenue. By upholding the order Government was about to lose above Rs. 11,000 and odd. By any standard the amount is not insignificant. The error found by the Conservator was absolutely a technical error. Under no provision of "the Rules" such technical error could have disqualified a tenderer. In short, the appellate authority "disqualified" the present petitioner without any authority of law. Such rejection by the appellate authority is not authorised by and under "the Rules".

It is true that there is no obligation for the authorities to accept the highest offer or any offer but Rule 10 of "the Rules" generally enjoins acceptance of the highest tender. In the event of any departure from the Rule the authority must give reasons. In the instant case, the sole ground for rejection of the tender of the petitioner was that there was some trivial technical arithmetical error which could have been rectified and in fact was rectified by the D.F.O. Under the circumstances the impugned appellate order must be set aside, which we hereby do and uphold the order of the D.F.O. Immediately on receipt of this order the D.F.O. shall accept tender money from the petitioner and settle the mahal in question in favour of the petitioner. We quash the order of settlement made by respondent No. 2 in favour of respondent No. 4 Shri Abdul Sobhan.

3. In the fitness of things nobody has appeared to justify the order of the appellate authority although notices were duly served on the respondents. Surely, the stand is well justified as there exists no ground to justify the appellate order.

4. In the result, we accept the petition, make the Rule absolute, set aside the appellate order dated 12-4-82 and direct the Divisional Forest Officer, Nowgong, to settle the mahal in question in favour of the petitioner. However, there will be no order as to costs.