

(1994) 01 GAU CK 0011
In the Gauhati High Court

Mujibur Rahman

APPELLANT

Vs

Majun Ali and Ors.

RESPONDENT

Date of Decision : 01-01-1994

Acts Referred:

Citation : (1994) 1 GLJ 265

Hon'ble Judges : R.K.Manisana Singh, C.J. and N.G.Das, J

Bench : Division Bench

Advocate : N.S.Deka, P.B.Majumdar, N.Dhar, S.N.Medhi, Advocates appearing for Parties

Judgement

R.K. Manisana, C.J. (Acting)

1. This is an appeal from the judgment of the learned Single Judge made on 3.8.93 in Civil Rule No. 1023 of 1993. Facts, in brief, are thus. Pursuant to tender notice dated 1.2.93 for letting Mukalmua Bhagaonmari Ferry for the period from 1.4.93 to 31.3.94, the writ petitioner and another submitted their tenders. The writ petitioner offered Rs. 1.01.000/ and his tender was highest. The settling authority instead of settling the ferry on the basis of tenders received settled the ferry directly to the sixth respondent at Rs. 72,000/ in exercise of power under Rule 4 (2) of the Control and Management of Ferries Rules, 1968. Learned Single Judge, after holding that the settlement of ferry with sixth respondent under Rule 4 (2) was arbitrary, set aside the settlement and allowed the writ petition with a direction to settle the ferry with the highest bidder, namely the writ petitioner. Hence this appeal by sixth respondent.

2. Mr. Dhar, learned counsel for the appellant, has submitted that the Government have the authority to settle the ferry directly under Rule 4 (2) with the appellant. On the facts and in the circumstances of the case, learned Single Judge has held the settlement with sixth respondent was arbitrary as the Government proposed to settle the ferry without consideration of the tenders received by the authority. We are of the view that the learned Single Judge has

rightly held that the settlement of the ferry with the sixth respondent was arbitrary on the facts and circumstances of the case.

3. The next contention of Mr. Dhar is that, in terms of the notice, the tender shall be accompanied with valuation certificate of the landed property of the petitioner from Deputy Commissioner, Additional Deputy Commissioner or SubDivisional Officer. But the petitioner submitted the tender with a certificate from the SubDeputy Collector and not from the officers mentioned in the tender notice and, therefore, the tender of the writ petitioner was invalid and the ferry could not be settled with him.

4. In Rohit Kumar Das vs. State of Assam, AIR 1972 Gauhati 32 (DB) the tenderer produced Scheduled Caste certificate from the SubDeputy Collector. Under Rule 6 (4) of the Assam Settlement of Forests, Coupes and Mahals by Tender System Rules, 1967, if a tenderer claims to belonging Scheduled Caste community, the tender shall be accompanied with a certificate to that effect from the Deputy Commissioner or SubDivisional Officer within whose jurisdiction the tenderer permanently resides. A question arose whether the certificate issued by the SubDeputy Collector was valid in view of Rule 6 (4). After considering the scheme to the Rules, purpose of Rule 6 (4) and other relevant considerations, this Court has held that the certificate from the SubDeputy Collector was sufficient compliance with Rule 6 (4).

5. In the present case, a valuation certificate from the Revenue Officer was required although it had been specifically mentioned in the tender notice that certificate should be from the Deputy Commissioner, Additional Deputy Commissioner, or SubDivisional Officer. The SubDeputy Collector is one of the Revenue Officers, may be the lower echelon of Revenue Officers. On the facts and in the circumstances of the case, we are of the view that the principle underlying the decision referred to above should be extended to the present case. Therefore, the certificate issued by the SubDeputy Collector was in sufficient compliance with the notice. In that view of the matter, the contention of Mr. Dhar cannot be accepted,

6. In the result, the appeal is dismissed. No costs.