
(2021) 08 GAU CK 0090

In the Gauhati High Court

Case No : Writ Petition (Civil) No. 4117 Of 2021

Progressive Educational Society And 3 Ors

APPELLANT

Vs

State Of Assam And 2 Ors

RESPONDENT

Date of Decision : 24-08-2021

Acts Referred:

Citation : (2021) 08 GAU CK 0090

Hon'ble Judges : Prasanta Kumar Deka, J

Bench : Single Bench

Advocate : A D Choudhury

Judgement

Heard Mr. A. D. Choudhury, the learned counsel appearing on behalf of the petitioners.

The petitioners are the NGOs and engaged themselves in providing supplementary nutrition programme services by supplying to the various

Anganwadi Centres under the respondent No. 2. Notice Inviting Expression of Interest bearing No. DSW(ICDS)G/SNP/98/2021/1 dated, Guwahati,

the 9th August, 2021 for lifting of Rice from FCI depots in Assam after making necessary payment to FCAI by the bidder and Re-packing of lifted

rice from FCI depots in Assam (to be allocated by Ministry of Women and Child Development, Govt. of India) and food items like Mix dal (Moong

and Masur Dal), Moong Dal, Masur Dal and Soy nuggets, pea nuts, Bengal gram, (chana dal), yellow pea, egg, suji, sugar, milk (skimmed) etc. under

the Scheme Supplementary Nutrition Programme (SNP) was issued by the respondent No. 2. In the said notice Inviting Expression of Interest, the

petitioners are aggrieved by the introduction of the documents required for technical bid as stipulated under Clause 4 Sub-Clauses- 9, 10 and 11. The

said Clauses are extracted herein below:-

Clause 4: Documents/particulars required for technical bid:-

9. The average annual turnover of the firm for the financial years i.e. 2017-18, 2018-19 & 2019-20 should be at least Rs. 700.00 lakhs (the calculation

of average shall be carried out on the basis of total of yearly turnover of three financial years divided by three). Turnover Certificate issued by a

competent Chartered Accountant having UDIN number must be submitted by the bidder for the proof of the same.

10. The bidders must furnish minimum of EMD of Rs. 50.00 Lakhs and upper Cap of EMD shall be 250.00 lakhs only which will have to be furnished

in the form of Crossed Demand Draft/ Banker's Cheque/Fixed Deposit only issued by Scheduled Commercial Bank drawn in favour of the

Director of Social Welfare, Assam and payable at Guwahati.

11. The bidder must have experience for supply of materials with either from Govt. of India/Govt. of Assam/PSUs for at least amounting to Rs.

300.00 lakhs in a single order within the last three financial years i.e. 2018-19, 2019-20 & 2020-21 (the bidder must furnish the copy of the work order

along with work completion certificate for the concerned work order issued by competent authority).

It is submitted by Mr. Choudhury that on earlier occasion, the petitioner participated in the Expression of Interest wherein such qualifying criteria were

not introduced following which the petitioners being the NGOs participate and were allotted various supply works. The aforesaid Clause introduced in

the E-tender dated 09.08.2021 is totally discriminatory and arbitrary purportedly with an oblique purpose to oust the petitioners from the competition.

Accordingly, Mr. Choudhury sought for interference in the said impugned Clauses of the impugned Expression of Interest dated 09.08.2021. As per

the publication of the Expression of Interest dated 09.08.2021, the last date of submission of online bid is fixed on 06.09.2021 and the tender opening

date is on 07.09.2021 at 11:00 AM.

Mr. K. Goswami, the learned Additional Senior Government Advocate, Assam has produced the instruction received by him and sought the leave of

this court to file affidavit-in-opposition immediately so that the matter can be decided. It is also stated that the present Expression of Interest was

issued on the basis of the guidelines dated 13.01.2021 issued to all the Chief

Secretaries of the States/ Union Territories by the Government of India,
Ministry of Women & Child Development. By the terms of the Guidelines dated
13.01.2021, the earlier notification in respect of the Supplementary
Nutrition (under the Integrated Child Development Services Schemes) Rules,
2017 that has been superseded logically.

In view of the contention made by Mr. Goswami and also considering the leave
sought for by him, Mr. Goswami shall file an affidavit within

31.08.2021 and let this matter be listed on 02.09.2021 for Motion.

The petitioners shall accordingly participate however without passing any
direction to the respondents at this stage.