(2018) 04 GAU CK 0106

In the Gauhati High Court

Case No : WP(C) 2546 of 2018

RAJIB SONOWAL APPELLANT

Vs

THE STATE OF ASSAM AND 4 ORS. RESPONDENT

Date of Decision : 26-04-2018

Acts Referred:

Citation : (2018) 04 GAU CK 0106

Hon'ble Judges : ARUP KUMAR GOSWAMI

Bench : Single Bench

Final Decision : Dismissed

Judgement

1.Heard Mr. N.N. Jha and Mr. M. Beria, learned counsel for the petitioner. Also heard Mr. S.K. Medhi, learned Additional Advocate General,

Assam, appearing for the respondents.

2. This writ petition is filed challenging the advertisement dated 06.04.2018 whereby mining permit area No.DBR/Khowang/23 of 2018-20 (for short

â??the mining areaâ?) was put to re-sale and praying for a Writ of Mandamus directing the respondents to settle the said mining area with the

petitioner as he was the highest valid tenderer pursuant to the sale notice dated 07.02.2018 issued by respondent No.5, i.e. Divisional Forest Officer,

for a period of two years, i.e. 2018-2020.

3. The last date for submission of tender in respect of the said sale notice dated 07.02.2018 was 28.02.2018. Six tenderers had submitted their tender

papers and it appears that at a bid value of Rs.8,10,000/-, the petitioner had emerged as the highest tenderer. Subsequently, after preparation of the

comparative statement, by letter dated 07.03.2018 (Annexure-5 of the writ petition) addressed to the respondent No.4, i.e. Conservator of Forests, Eastern Assam Circle, the respondent No.5 sought permission to put the mining area into re-sale in the interest of Government revenue. The said

prayer was accepted by the respondent No.4 by letter dated 19.03.2018 (Annexure-6 of the writ petition) and he requested the respondent No.5 to re-

survey the mining permit area for enhancement of stipulated quantity and, thereafter, to put the same on re-sale giving wide publicity. Subsequent

thereto, notice for re-sale was issued fixing tomorrow i.e. 27.04.2018 upto 3.00 P.M. for receipt of tenders.

4. Mr. Jha, learned counsel for the petitioner has submitted that the Government valuation of the mining area in question, in terms of the sale notice

dated 07.03.2018, was Rs.5,35,000/- and the bid of the petitioner was much more than the Government valuation and, therefore, there can be no

justification for not taking the said sale notice to its logical conclusion and in again going for re-sale of the mining area. Though not on record, it is

submitted by Mr. Jha that there were many instances earlier where settlement orders had been issued for less than the settlement amount for the

previous years and he submits that the respondents cannot apply different yardsticks at different points of time.

5. Mr. Medhi, learned Additional Advocate General, Assam, on the other hand, submitted that in the previous term, i.e. for the year 2016-2018, the

same mining area was settled at Rs.41 Lakhs and the mining area was operated successfully for the entire period and, therefore, it cannot be said that

the action which was taken in the interest of Government revenue is arbitrary and irrational.

6. I find much substance in the argument of Mr. Medhi, learned Additional Advocate General, Assam.

7. In the letter dated 7.3.2018 (Annexure-5), respondent No.5 had noted that in the last term, the settled value was Rs.41 Lakhs and that the mining

area was successfully operated for the whole working period and the successful tenderer had also paid all the kist amount. There is a gulf of

difference between the previous termâ??s settlement amount of Rs.41 Lakhs and the bid of the petitioner, which is highest at Rs.8,10,000/-. It is not

disputed in the writ petition that the mining area was successfully operated at Rs.41 Lakhs and full kist money was paid.

8. When there is such a huge difference, it cannot be countenanced that the respondents had taken the decision to abort the earlier sale notice and to

go for re-sale notice for extraneous or irrelevant consideration or that the decision had been taken without taking into consideration relevant

consideration.

9. Every functionary of the State, at the time of distribution of State largess, has to keep in mind the best interest of the State and this is what has been

done in the instant case.

10. Only because of the fact that the highest tender amount is more than the Government valuation cannot be a basis to hold that best possible

revenue has been offered. The admitted position is that settlement amount in the previous term was almost five times the present highest offered

amount.

11. For the reasons above, I find no merit to entertain this writ petition and the same is dismissed. No cost.

12. Before parting, it is observed that the basis on which the Government valuation is fixed is not discernible and if there is any rule/guideline, the

respondents may consider whether the same needs a fresh look to ensure that revenue generation is not compromised.