

WP(C) 3751/2007

BEFORE

HON'BLE JUSTICE MR I. A. ANSARI

Heard Mr. A. M. Mazumdar, learned Senior counsel, appearing on behalf of the petitioner, and Ms. Phukan, learned Government counsel, appearing on behalf of respondent Nos. 1, 2 and 3.

Pursuant to an advertisement, dated 17.04.2007, the petitioner herein and some others submitted their tender for settlement of Mandia Hat for the financial year 2007-2008. Though the petitioner was the highest bidder, the Barpeta Zilla Parishad decided to settle the Hat with respondent No. 4, whose bid was lower than the bid of the petitioner, for, the petitioner had offered to pay Rs. 8,00,001, whereas the bid offered by the respondent No. 4 was Rs. 6,55,373/-. As the Assam Panchayat (Financial) Rules, 2002, do not permit a Panchayat to make settlement except with the highest bidder without obtaining sanction from the Government, the respondent Panchayat has already applied to the Government seeking requisite sanction. Pending decision by the Government in the matter, the respondent Panchayat has, however, settled the Hat for a period of one month, i.e. with effect from 01.07.07 to 31.07.07, as an interim arrangement. Contending, that he (the petitioner) being the highest bidder, ought to have been given the settlement of the Hat and that the interim arrangement, which has been made by the respondent Panchayat, is arbitrary, malafide and contrary to law, the petitioner has, now, come to this Court with this application made under Article 226 of the Constitution of India challenging the matter and seeking to set aside and quashing of the order, dated 29.06.2007, whereby the interim settlement was made.

Considering the matter in its entirety and in the interest of justice, this writ petition is disposed with direction to the Government to consider the petitioner's representation, dated 27.06.2007, which the petitioner submitted objecting to the act of the respondent Panchayat of not making the settlement with the petitioner and pass appropriate order(s) with regard to the respondent Panchayat's request for granting sanction in terms of the Assam Panchayat (Financial) Rules, 2002, so as to enable the respondent Panchayat to make the settlement in favour of the respondent No. 4. Whatever decision is arrived at by the State respondents, particularly, respondent Nos. 1, namely, Commissioner & Secretary to the Government of Assam, Panchayat and Rural Development Department, shall be communicated, in writing, to the petitioner. If the petitioner feels aggrieved by the decision, which may be arrived at by the respondent No. 1 or the order(s), which may be arrived at by the respondent No. 1, the petitioner shall take recourse to such provisions of law, which may be permissible in law. The respondent No. 3, namely, the Chief Executive Officer, Barpeta Zilla Parishad, shall not extend, without leave of this Court, the settlement of the Hat, in question, in favour of the respondent No. 4.

With the above observations and directions, this writ petition shall stand disposed of.

No order as to cost.