GAHC040015092026

THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)
(ITANAGAR BENCH)

Case No. : WA/62/2026

Ashing Sonam and 4 Ors
Son of Late T Sonam, Village Lower Liyak, PO and PS Lada, East Kameng District, Arunachal Pradesh 970102, is represented to M/s Narmi Infra Co 2: Smti Sangha Karuk
Age:
Occupation :
Wife of Shri Sangha Tanang
Village Mengio
PO and PS Parsi Parlo
Kurung Kumey District
Arunachal Pradesh 791118
is represented M/s Gumssang Massang Multipurpose Society Ltd

3: Arun Riya
Age:
Occupation :
Son of Shri Sedap Riya
Village Yangfo
East Kameng District
Arunachal Pradesh.790102 is represented to M/s Higio Enterprise

4: Tame Anuk
Age:
Occupation :
Son of Late Tame Takio
resident of G Extension
PO and PS Naharlagun
Papum Pare District
Arunachal Pradesh 791110
is represented to M/s Rosy Bhai Enterprise

5: Smti Tana Pina
Age:

Occupation :
Daughter of Shri Tana Tassap
resident of Village Toru
PO and PS Sagalee
Papum Pare District
Arunachal Pradesh 791114
is represented to M/s Radiant Drug House

VERSUS

The State of AP and 3 Ors
represented by the Chief Secretary, Govt of Arunachal Pradesh. 2:The Secretary Health
Age: 0
Occupation :
Govt of Arunachal Pradesh
Itanagar.

3:The Director
Age: 0
Occupation :
Tomo Riba Institute of Health and Medical Sciences
Naharlagun.

4:The Chief Medical Superintendent
Age: 0
Occupation :
Tomo Riba Institute of Health and Medical Science
Naharlagun

Advocate for the Petitioner : Michi Nibo,

Advocate for the Respondent : GA (AP), SC(Health),Taba Tagum

BEFORE
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI
HONOURABLE MR. JUSTICE PRANJAL DAS

ORDER

Date : 10.09.2026
(S. K. Medhi, J.)

Heard Shri M. Nibo, learned counsel for the appellants/writ petitioners. Also heard Shri T. Tagum, learned Standing Counsel for the

Health and Family Welfare Department.

2. Considering the nature of grievance raised in the appeal preferred which pertains to non-grant of an interim relief, the writ appeal is taken up for final consideration at the admission stage itself.

3. To have an idea on the nature of the grievance, it may be required to put certain facts on record briefly.

4. The petitioners had participated in NIQ dated 27.07.2026 pertaining to supply of materials and medicines to the TRIHMS, Naharlagun, Arunachal Pradesh. However, vide the impugned evaluation dated 11.08.2026, the bids of the petitioners were rejected. Such rejection is on the ground that the petitioners had violated the requirement of submitting the bid in a certain manner having 2(two) outer covers, namely, cover A for a technical bid and cover B for the financial bid.

5. The case of the appellants/writ petitioners is that though the bids were offered in sealed covers, those were not done strictly in the manner prescribed. He submits that though there was a requirement to have the sealed envelopes of the technical and financial bids to be put inside an outer cover, the appellants did not put the sealed envelopes in the outer cover and accordingly, the bids were rejected. It is contended by Shri Nibo, learned counsel for the appellants that such rejections are not justified and would amount to an unfair treatment of the bids of the petitioners and also result in limiting the competition.

6. The learned Single Judge, vide an order dated 17.08.2026, while

issuing notice had declined to pass any interim order. However, an observation had been made that the award of the work in question would be subject to the outcome of the writ petition.

7. Shri Nibo, learned counsel for the appellants has submitted that the work is in the nature of one-time supply and if the same is done, even if the appellants/petitioners are successful in the writ petition, they will not get the fruits of the litigation. He has also submitted that the appellants/petitioners have a good case on merits.

8. *Per contra*, Shri Tagum, learned Standing Counsel, Health Department has defended the impugned order of rejection of the interim prayer and has submitted that the violation for which the bids of the appellants/writ petitioners have been rejected is of mandatory nature. By drawing the attention of this Court to the said requirements, which is a part of Annexure-II, pertaining to "Preparation, Sealing and Submission of Bids", he has submitted under heading 'A', there is a requirement of "Mandatory Cover System". He submits that the petitioners have admittedly not fulfilled the said requirement.

9. It appears that the learned Single Judge, upon consideration of the aforesaid submission and the requirement of the tender had declined to pass any interim order.

10. We have given our anxious thoughts to the said order as well as carefully examined the requirement in the tender.

11. The requirement is of a "Mandatory Cover System". Though the

learned Standing Counsel has given an interpretation that such condition is mandatory, this Court is of the opinion that such interpretation may not be correct as the aspect is on the cover system which is mandatory in nature. In the instant case, it is not in dispute that the bids of the petitioners were indeed given in sealed cover. The only deficiency, if any, is not having a separate an outer cover. In our considered opinion, such non-fulfilment cannot be held to be a violation of an essential condition of the tender and can only be regarded as a hyper technical ground for rejecting the bids of the appellants/petitioners. We are also of the opinion that consideration of the bids of the petitioners, who had admittedly submitted the same in sealed covers would not cause any prejudice to the competing bidders and would rather give the State an opportunity to find a better price depending upon the financial evaluation provided the bids of the appellants/petitioner are otherwise found to be technically responsive.

12. In view of the aforesaid discussion, while interfering with the order dated 17.08.2026 so far as the same relates to declining to pass an interim order, we direct the Department to consider the bids of the appellants/writ petitioners on merits and if found to be technically responsive as per the conditions of the NIQ, consider the financial bids and thereafter, allot the work to the L1 bidder in accordance with law.

13. Considering that the supply is of life saving essential medicines, such consideration, as directed above be made and decision be taken expeditiously as possible and preferably within a period of 21(twenty-one) days from today. The outcome of such consideration be placed before the learned Single Bench, who would take a final decision in the matter.

14. The writ appeal stands allowed in the manner indicated above.

JUDGE **JUDGE**

Comparing Assistant

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