GAHC010247112026

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

Case No. : WP(C)/6064/2026

M/S JAI AMBEY EMERGENCY SERVICES I PRIVATE LIMITED
THROUGH ITS AUTHORISED SIGNATORY, SHRI SAURABH SHARMA, SO SHRI RAJESH SHARMA, REGISTERED OFFICE AT 2ND FLOOR, RIGHT SIDE, GLOBAL TOWER, AVANTI VIHAR, RAIPUR, CHHATTISGARH, PIN- 492001

2: DHARMENDRA SINGH
SO SHRI PRADEEP SINGH
DIRECTOR OF THE PETITIONER NO 1 COMPANY
RO HOUSE NO 303
PHASE I
VIDHANSABHA ROAD
SAPPHIRE GREENS
RAIPUR
CHHATTISGARH 49200

VERSUS

THE STATE OF ASSAM AND OTHERS
THROUGH ITS PRINCIPAL SECRETARY COMMISSIONER AND SECRETARY TO THE GOVT OF ASSAM, HEALTH AND FAMILY WELFARE DEPARTMENT, DISPUR, GHY , PIN-781006

2:ASSAM MEDICAL SERVICES CORPORATION LIMITED
A GOVT OF ASSAM UNDERTAKING
THROUGH ITS MANAGING DIRECTOR
CENTRAL DRUG WAREHOUSE CAMPUS
PATHERQUARY
NARENGI
GHY
ASSAM
PIN 781026

3:THE MISSION DIRECTOR
NATIONAL HEALTH MISSION

ASSAM
OFFICE AT 1ST FLOOR
ICMR BUILDING
KHAGEN MAHANTA PATH
HENGRABARI
GHY 781036

4:GOVERNMENT E MARKET PLACE GEM
A SECTION 8 COMPANY UNDER THE MINISTRY OF COMMERCE AND INDUSTRY
GOVT OF INDIA
THROUGH ITS CHIEF EXECUTIVE OFFICER
JEEVAN TARA BUILDING
5 SANSAD MARG
NEW DELHI 110001

5:COMMUNITY ACTION THROUGH MOTIVATION PROGRAMME CAMP
REPRESENTED BY ITS AUTHORISED SIGNATORY
OFFICE AT H NO 280
2ND FLOOR
ROHIT NAGAR PHASE 2
BAWADIYA KALAN
BHOPAL
MADHYA PRADESH 46203

Advocate for the petitioner(s): Mr. Divyakant Lahoti
Mr. H Betala

Advocate for the respondent(s): Mr. B Gogoi, Addl.AG, Assam
Mr. M Bhuyan, Standing Counsel
Health Department

B E F O R E

HON'BLE MR. JUSTICE DEVASHIS BARUAH

ORDER

06.11.2026

Heard Mr. Divyakant Lahoti, the learned counsel appearing on behalf of the petitioner.

2. Issue notice making it returnable on 19.11.2026.

3. Mr. B Gogoi, the learned Addl. Advocate General as well as the Standing Counsel Health and Family Welfare Department accepts notice on behalf of respondent Nos.1, 2 and 3; Mr. K Gogoi, the learned CGC accepts notice on behalf of respondent No.4. Extra copies of the writ petition be served upon them during the course of the day.

4. *Insofar as* the respondent No.5 is concerned, the petitioner is directed to take steps by way of speed post by today.

5. In addition to that, the petitioner is also granted the liberty to effect service upon the respondent No.5 by way of *Dasti* routed through the Registry of this Court and file an affidavit of service on or before the next date fixed.

6. This Court further taking into account that the matter requires an urgent consideration, permits extra copies of the writ petition to be served upon Mr. B Gogoi, the learned Addl. A.G., Assam so that through the Managing Director of the respondent No.2, service can be meted upon the respondent No.5.

7. The learned counsel appearing on behalf of the petitioner is also directed to provide a soft copy of the writ petition to Mr. M Bhuyan, the learned counsel assisting Mr. B Gogoi, the learned Addl. A.G. Assam so that through e-mail also the soft copy of the writ petition can be served upon the respondent No.5.

8. A Notice Inviting Tender was issued by the respondent No.4 on behalf of the respondent No.2 on 20.05.2026 for procuring *Fleet Management Service – Ambulance; Type D Advance Life Support Ambulance; Service Provider; 2, Fleet Management Service - Ambulance; Type C Basic Life Support Ambulance; Service Provider; 2, Fleet Management Service - Ambulances; Boat Ambulance; Service Provider; 2*.

9. As many as 9(nine) bidders participated including the petitioner and the

private respondents in the said tender process. In the technical evaluation being carried out, amongst the 9(nine) bidders, 5(five) bidders were technically held to be non-responsive, whereas four bidders were held to be technically responsive.

10. At this stage, it is of relevance to take note of the judgment of the Supreme Court in the case of ***Afcons Infrastructure Limited Vs. Nagpur Metro Rail Corporation Limited and Another*** reported in ***(2016) 16 SCC 818***, wherein the Supreme Court categorically mentions at paragraph No.22 that all the technically qualified bidders ought to be made parties to the proceedings, wherein there is a challenge to a technical disqualification of a bidder. Under such circumstances, this Court directs the petitioner to file appropriate applications for impleading the three other technically qualified bidders in the technical evaluation carried out on 11.10.2026.

11. The petitioner's bid was held to be technically non-responsive on the ground that the documents which the petitioner submitted did not establish the experience in fleet management service by the petitioner. The petitioner, immediately on 12.10.2026, submitted a representation thereby pointing out that the petitioner had due experience as a lead partner in various work orders which were in the *Chhattisgarh 108 Sanjeevani Express Project*; *Madhya Pradesh Integrated Referral Transport System* and *104 Health Helpline project*.

12. The said representation, however, was rejected on 23.10.2026 on the ground that the experience so shown was an experience as a consortium, though the petitioner was shown as a lead partner. It was also mentioned that in terms with Clause (ix) of the technical corrigendum issued, the lead partner must have prior experience in the fleet management service and on that ground also, the petitioner's representation was rejected.

13. Mr. Divyakant Lahoti, the learned counsel appearing on behalf of the petitioner submitted drawing reference to the terms and conditions of the tender that a perusal of the terms and conditions of the tender do not show that an experience as a lead partner in a consortium would not be taken into consideration, while evaluating the past experience.

14. The learned counsel further submitted that the technical corrigendum so referred to in the communication dated 23.10.2026 would apply when the bid is submitted by a Joint Venture (JV) or a consortium. The said technical corrigendum would have no application when the bidder is a single entity and not a Joint Venture (JV) or a consortium.

15. The learned counsel appearing on behalf of the petitioner further submitted that when a similar issue arose in respect to an earlier tender wherein the petitioner participated and a challenge was made to selection of one of the bidders on the ground of requisite past experience, it was the very stand of the State that the experience as a consortium can be taken into consideration.

16. The learned counsel referred to the judgment of the learned Coordinate Bench in the case of ***Community Action Through Motivation Programme (CAMP) Vs. the State of Assam and Others*** reported in ***2022 (4) GLR 604*** and submitted that it was the very stand of the State respondents in those proceedings that experience gathered as a constituent of a consortium can be relied upon for evaluating the experience in respect to the said entity, when it participates as a single entity.

17. In addition to that, the learned counsel further relying upon the judgment of the Supreme Court in the case of ***New Horizons Limited Vs. Union of India***, reported in (***1995) 1 SCC 478***, submitted that the Supreme Court has been

categorical in the said judgment that the principle of lifting the corporate veil is one of the aspects which should be taken into consideration to ascertain as to whether the bidder has the experience.

18. In the instant case, the learned counsel for the petitioner submitted that a perusal of the materials on record including the certificates which have been issued would clearly show that the petitioner was the lead partner in respect to the contracts which were granted by the Government of Chhattisgarh as well as the Government of Madhya Pradesh, and the value of those contracts if taken into consideration far outweighs the experience, the value which is required to meet the experience in the present proceedings.

19. This Court has also heard Mr. B. Gogoi, the learned Additional Advocate General, Assam who submits that if there is a delay in disposal of the present proceedings, it would impact the ambulance services which is of vital importance. He further submitted that the affidavit would be filed within seven days from today.

20. This Court has also taken into consideration as to whether there is a requirement for passing any interim direction(s). The learned counsel appearing on behalf of the petitioner submits that if interim directions are not passed, it would result in creation of third party rights. Further to that, irreparable injury would be caused which cannot later on be compensated by any monetary compensation. Apart from that, public interest would be affected *inasmuch as* wider the participation, the rates would be more competitive.

21. Taking into account the overall aspect of the matter and as no Letter of Intent or Letter of Acceptance have been issued as on date, this Court, therefore, directs that till the next date, there shall not be any issuance of any

Letter of Intent or any formation of a contract with the respondent No.5 or any other bidders.

22. List accordingly.

JUDGE

Comparing Assistant