

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA.**CWP No. 12523 of 2025****Date of decision: 23.12.2025**

M/s Super Power Steel	...	Petitioner
	Versus	
HPSEB Ltd. & Anr.	...	Respondents

*Coram****The Hon'ble Mr. Justice G. S. Sandhawalia, Chief Justice.******The Hon'ble Mr. Justice Jiya Lal Bhardwaj, Judge.****Whether approved for reporting?***For the Petitioner:** Mr. Ajay Vaidya, Advocate.**For the Respondents:** Ms. Sunita Sharma, Senior Advocate
with Ms. Sugandh Verma, Advocate.**G. S. Sandhawalia, Chief Justice (Oral)**

The present writ petition challenges the order passed by the respondents-Board, dated 24.07.2025 (Annexure P-5), whereby the petitioner's tender was rejected during technical evaluation by duly constituted committee for the reason that the '*Documents not as per NIT*'.

2. The principal argument raised as such by the counsel for the petitioner is that the order does not contain any specific reason, as such, for rejecting his case for the tender in question, which was for the supply of AAAC Conductor and ACSR Conductor.

3. As per the Minimum Qualifying Requirement of the tender notice (Annexure P-2), 'the bidder/manufacturer must have the satisfactory performance certificate of ACSR/AAAC Conductors supplied to the Government Department/State

Electricity Board/Power Utilities for any 03 years during the last 05 years and the satisfactory performance certificates issued from the Government Departments/State Electricity Boards/Power Utilities. Similarly, under Clause 13(c), defaulter for 25% or more quantity for more than 09 months or any other quantity for more than 15 months in making the supplies against the earlier purchase order placed on them or with whom business has been suspended, black listed, debarred firms shall not be considered during the techno-commercial evaluation of bid. The minimum qualifying requirement, as such, reads as under:-

“13.0 MINIMUM QUALIFYING REQUIREMENT

(a) In general the prospective Manufacturers/bidders, who falls in the stream of old/regular bidders (excluding H.P. Based New Entrant) shall have their average annual turnover of 30% for the last three financial years of the estimated cost of the tender and in case of Himachal based old/regular bidders, the average annual turnover shall be 50% of the criteria applicable for general prospective bidders.

(b) The bidder/manufacture must have the satisfactory performance certificate of ACSR/AAAC conductors supplied to the Govt. Departments/State Electricity boards /Power Utilities for any, 03 years during the last 05 years. Satisfactory performance certificates issued from Govt. Departments/State Electricity boards/Power Utilities must be supplied with the bid documents.

(c) The firms, which are HPSEBL defaulter for 25% or more quantity for more than 9 (nine) months or any other quantity for more than 15 (fifteen) months in making the supplies against the earlier purchase order placed on

them or with whom business has been suspended, black listed, debarred firms shall not be considered during the techno-commercial evaluation of bid and the price bids of such firms shall not be opened without any further intimation to them.

4. It is not disputed that the order, as such, was non-speaking and initially there was a stay as such regarding the tender not to be awarded without the leave of the Court. However, due to an application being filed to place the supply order on the L-1 firm, so that the electricity supply lines could be restored in various parts of the State, we had vacated the stay on 12.09.2025 and permitted the Electricity Board to go-ahead with the tender, subject to the final decision of the writ petition. The same was done keeping in view the fact that the State was undergoing the unavailability and shortage of material, which would adversely affect the general public and infrastructure project and incidents of cloud burst had taken place and there was large scale felling of trees in the mountains and boulders had blocked roads and even washed away the roads/land on account of unprecedented rainfall this year.

5. Now, we are informed that M/s Bharat Electrotech Pvt. Ltd., Kangra, H.P. and M/s Prem Cables Pvt. Ltd., Pali, Rajasthan have been awarded tender as such. For the last three months, no efforts have been made by the petitioner to implead the said contractors.

6. The argument which is raised, thus, has substance on merit but in absence of private respondents, who have started the work, we find that the present petition is, thus, not maintainable for non-joinder of necessary parties as no order can be passed to their detriment without impleading them.

7. The counsel for the petitioner has argued that one of the reasons, as such, is that vide letter dated 04.06.2025 (Annexure RA-4), the performance bank guarantee amounting to Rs. 3,70,500.00 was encashed on 08.11.2018 and, therefore, the same had been done prior to the prescribed period as such and, therefore, the non-consideration was without basis.

8. Similarly, it is also submitted that the argument raised by learned counsel for the Electricity Board that he had not supplied as such the goods and Mohammed Anwar has given the certificate, is also sought to be supplemented by arguing that the material was supplied by the petitioner only and the said person was only a contractor, whose certificate had been appended in support of the clarification asked for on 10.07.2025 (Annexure R-A/2) and duly given on 12.07.2025 (Annexure R-A/3).

9. It is, thus, submitted that neither there is any proper application of mind as such while passing the rejection order on 24.07.2025 nor it contains reasons, which could have been supplemented in the written statement, thus, it would be violative in view of the judgment in **Mohinder Singh Gill vs.**

The Chief Election Commissioner, New Delhi & Ors., AIR 1978 SC 851.

10. Keeping in view the peculiar facts and circumstances, we are of the considered opinion that though the petitioner might have made out its case against the order, but now much water has flowed under the bridge and, therefore, in absence of the contractors, who have been given the award, we cannot, now at this stage, proceed ahead and pass any order.

11. Resultantly, it is open to the petitioner to take out appropriate proceedings for compensation, if any, against the Electricity Board for rejecting the tender on the grounds, which were not tenable and which had been clarified on 12.07.2025 and from the order dated 24.07.2025 (Annexure P-5), no valid reason is forthcoming though justification has been given as such in the reply and the documents attached thereto. Liberty thus is granted to the petitioner to take out appropriate proceedings in the Court of competent jurisdiction.

12. Accordingly, the present writ petition is disposed off, so also pending applications, if any.

(G. S. Sandhawalia)
Chief Justice

(Jiya Lal Bhardwaj)
Judge

23rd December, 2025 (sanjeev)