

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP No.10579 of 2015

Date of decision:25.5.2015

M/s Yadav Builders

....Petitioner

VERSUS

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE HEMANT GUPTA

HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Navdeep Chhabra, Advocate for the petitioner.

HEMANT GUPTA, J.(Oral)

The challenge in the present writ petition is to the rejection of the tender of the petitioner for the work of widening of existing carriageway from 5.50 metres to 7.00 metres and strengthening of Kotakpura - Sri Muktsar Sahib - Jalalabad Road Section.

The tender of the petitioner has been rejected on the ground that the petitioner does not fulfill the basic eligibility condition as it does not have Batch type Hot Mix Plant 100-120 Ton, as per Clause 4.6 of DNIT as also the credit line facility and availability of financial sources facilities is less than required. It is also observed that the Court cases and Arbitration disputes are pending against the petitioner.

The relevant minutes recorded by the Committee constituted to evaluate the technical bids reads as under:-

“4. Executive Engineer informed the committee that he has confirmed the eligibility credentials along with proper bid security/ earnest money of all the bidders. He further mentioned before the Committee that the bids of M/s Yadav Builders, Sri Muktsar Sahib was found non responsive as this agency does not fulfill the DNIT conditions. As per Clause 4.3(d) the agency has not Batch type Hot Mix Plant 100-120 Tonne, as per clause 4.6 of DNIT Bid Capacity is less than required, as per Clause 4.3(g) 10% credit line facility and availability of financial sources facilities etc. is less than required, As per Clause 4.3(j) Court cases and Arbitrations are pending against him. Similarly M/s S.F. Constructions, Faridkot is also found to be non responsive as this agency has not fulfilled the DNIT conditions. As per Clause 4.3(d) the agency has no Batch type Hot Mix Plant 100-120 Tonne capacity and as per Clause 4.3(g), he is not having 10% credit and availability of financial sources facilities etc.”

Learned counsel for the petitioner points out that the requirement of Hot Mix Plant will arise only after grant of contract, therefore, not possessing the Hot Mix Plant at the time of submission of tender cannot be a relevant criteria for declaring the petitioner ineligible at the stage of evaluation of the technical bid.

We do not find any merit in the said argument. The tender conditions contemplate that the tenderer has to have capacity to carry out work and which includes the requirement of Batch type Hot Mix Plant of the requisite tonnage.

The petitioner is not admittedly possessed of Hot Mix Plant 100-120 Tonnage capacity, therefore, it has been rightly found to be ineligible for evaluation of the technical bid itself.

Consequently, we do not find any merit in the present writ petition.

Dismissed.

(HEMANT GUPTA)
JUDGE

MAY 25, 2015
‘D. Gulati’

(LISA GILL)
JUDGE