

IN THE PUNJAB AND HARYANA HIGH COURT
AT CHANDIGARH

CWP No.11881 of 2014 (O&M)

Date of Decision: 11.02.2015

M/s Finar Limited

..Petitioner

Vs.

State of Punjab and others

..Respondents

2. CWP No.26610 of 2014

M/s Finar Limited

..Petitioner

Vs.

State of Punjab and others

..Respondents.

Coram: Hon'ble Mr.Justice S.J.Vazifdar, Acting Chief Justice
Hon'ble Mr.Justice Amol Rattan Singh

Present: Mr. Gaurav Sethi, Advocate for the petitioner.
Mr. Amit Sethi, Addl.AG Punjab.
Mr. Chankya Pandit, Advocate.

S.J. VAZIFDAR, ACTING CHIEF JUSTICE (Oral)

This order will dispose of two civil writ petitions bearing
Nos.11881 of 2014 and 26610 of 2014.

2. The petitioner has challenged the following condition:-

“1. Only original manufacturer are eligible to quote rates against this tender and should have in-house NABL own laboratory. Tender submitted by dealers agents or middlemen on the behalf of their principal manufacturers will be rejected out rightly.”

The requirement of a Laboratory with the National Accreditation Bureau of Laboratories certification cannot be termed to be arbitrary or unjustified. The level of competence and the qualifications required of a tenderer is a matter for the decision of the party inviting the tenders. The condition is not arbitrary. The challenge, therefore, to Clause (1) is rejected.

3. It was then contended that respondent No.5 (in CWP No.26610 of 2014) also does not possess the qualification required by Clause (1). However, in this regard it is pertinent to refer to Clause (2) which is as under:

“The following Brands against the specified Grades are also eligible to quote:

(A) For AR/LR Grade Chemicals

(a) M/s Thermo Fisher Scientific

(b) M/s E.Merck India Ltd.

(c) M/s SD Fine Chemicals Ltd.

(d) M/s Avantor Performance Materials India Ltd.

B) For HPLC Gade Chemicals

a. M/s SIGMA

b. M/s E.Merck India Ltd.

c. M/s Avantor Performance Materials India Ltd.”

Respondent No.5 is M/s Avantor Performance Materials India Limited.

4. The term “following brands” infact refers to the companies/entities listed in Clause (2). This is clear from the concluding words in the opening paragraph of clause (2) “eligible to quote”. Brands do not quote. It is entities manufacturing the products that would be able to quote in response to the NIT. Respondent No.5 is one of those companies. Respondent No.5 is therefore, qualified.

5. The decision to list only certain entities in Clause (2) is not arbitrary. It was a well reasoned decision. A meeting was held by the representatives of the Health and Family Welfare department on 9.5.2014 in the office of the Controller, Punjab. It was decided that the representative would visit PGI. The Brands recommended by the PGI specifications would be included in the tender alongwith technical specifications of the earlier tender. A meeting of the Chemical Committee of respondent Nos.1 to 3 was held in the office of the Head of Department of Medical Microbiology, Department of PGI. The minutes of the meeting mentioned the names of the entities recommended, which included M/s Ranbaxy Fine Chemicals. The relevant division of Ranbaxy was taken over by respondent No.5. This is infact noted in meeting held on 14.5.2014 by respondents No.1 to 3.

6. The petitioner relied upon an answer from PGI to the queries under the RTI Act. The reply is not very clear. It states that no correspondence was held between PGI and respondent Nos.1 to 3.

That however, would not be relevant as the decision of the meeting between respondent Nos.1 to 3 and the PGI and the representatives of the PGI are referred to and relied upon by the respondents.

The reply further states that the officer was not aware of any visit by the officials of respondent Nos.1 to 3 on 9.5.2014 and 14.5.2014.

7. It is not necessary to consider the above aspect as two things are admitted. Firstly, the petitioner does not make any supplies to PGI. Thus, in any event, the question of the petitioner's name being added in the list Clause 1, would not arise.

Secondly, it is not contended that respondent No.5/Ranbaxy did not supply or did not have contract with the PGI.

8. In the circumstances, both the petitions are dismissed.

(S.J.VAZIFDAR)
ACTING CHIEF JUSTICE

(AMOL RATTAN SINGH)
JUDGE

11.2.2015
Meenu