

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

Civil Writ Petition No.12042 of 2014
Date of Decision: 05.01.2015

M/s Moga Transport Company

..Petitioner

versus

Food Corporation of India and others

..Respondents

**CORAM: HON'BLE MR. JUSTICE S.J.VAZIFDAR, ACTING CHIEF JUSTICE.
HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH.**

1. Whether Reporters of local papers may be allowed to see the judgment?
2. Whether to be referred to the Reporters or not ?
3. Whether the judgment should be reported in the Digest?

Present : Dr. Anmol Rattan Singh, Sr. Advocate with
Mr. HPS Bhinder, Advocate, for the petitioner.
Mr. Rajesh Garg, Sr. Advocate with
Ms. Nimrata Shergill, Advocate, for respondents No.1 to 5.
Mr. Gurminder Singh, Sr. Advocate with
Mr. RPS Bara, Advocate, for respondent No.6.

S.J.VAZIFDAR A.C.J. (Oral)

The petitioners have challenged the order of rejection of their tender by respondents No.1 to 5.

2. The petitioners were clearly ineligible to be considered for the contract. Clause-3 of the NIT in so far as it is relevant reads as under:-

"3. Qualification conditions for tender:-

I) Tenderer should have experience of Rake Handling and/or Transportation duly obtained from Manufacturer/PSU/Govt. Dept./Public Ltd. Company/Private Limited Company dealing in the field of Fertilizer, Food Grains, Cement, Sugar, Coarse grains or **any other** commodity. Tenderer should have executed in any of the immediate preceding five years the work of value;

a) At least 25% of the estimated value of the contract to be awarded, in one single contract;

OR

b) 50% of the estimated value of the contract to be awarded, in different contracts.

xx xx xx xx xx

xx xx xx xx xx

xx xx xx xx xx

Note: The year for the purpose of experience will be taken as Financial Year (1st April to 31st March) excluding the financial year in which tender enquiry is floated."

3. It is clear, therefore, that the tenderer should have executed in any of the immediate preceding five years the work of value of at least 25% of the estimated value of the contract in the present case in one single contract. The value of the present contract, for which tenders were invited, is about ₹ 9,20,70,000/-, 25% of which is ₹ 2,30,17,500/-.

4. The affidavit filed by respondents No.1 to 5 states that the petitioners had submitted the work experience of handling such contract for the period 19.12.2011 to 18.12.2013, as per the details mentioned therein. There is no denial of the contents of the aforesaid affidavit. The same were not challenged even before us. The petitioners had executed a contract of the highest value about ₹ 39 lacs during the period 19.12.2011 to 31.03.2012 and a contract of the value of ₹ 1,12,41,233/- during the period 01.04.2012 to 31.03.2013. The petitioners, therefore, did not meet the requirement of Clause 3(I) (a) as set out earlier. In addition thereto, in respect of the first two contracts, the petitioners have not even furnished their audited balance sheet and profit and loss account.

5. The petitioners have also claimed to have executed a contract of the value of ₹ 1,08,00,042/- during the period 01.04.2013 to 18.12.2013. This amount also falls short of the requirement of Clause 3(I)(a) of the NIT. Further this financial year is not even relevant in view of the 'Note' appended to Clause-3 set up above. The tenders were invited on 29.03.2014 and therefore, as per the said note, the financial year for the period 01.04.2013 to 31.03.2014 is not relevant.

6. In the circumstances, it is not necessary to consider any other submission on behalf of the respondents.

7. The writ petition is, therefore, dismissed.

(S.J.VAZIFDAR)
ACTING CHIEF JUSTICE

(AUGUSTINE GEORGE MASIH)
JUDGE

05.01.2015

'ravinder'