IN THE HIGH COURT OF PUNJAB AND HARYANA, AT CHANDIGARH

CWP No.11399 of 2015 (O&M)

Date of Decision : 28.5.2015

Anand Kumar Mishra

..Petitioner

Vs.

Post Graduate Institute for Medical Education and Research UT Chandigarh and others

..Respondents

CORAM : HON'BLE MR. JUSTICE HEMANT GUPTA
HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

Present : Mr. Rajiv Kataria, Advocate for the petitioner.

<u>Hemant Gupta, J.(Oral)</u>

Challenge in the present writ petition is to the rejection of technical bid submitted by the petitioner for the reason that the petitioner has not furnished attested copy of the audited balance sheet.

The respondent-Institution invited tender for allotment of shop sites. The petitioner submitted tender for taking shop No.5, New Shopping complex, PGI on lease of which last date was 18.5.2015 up to 4 p.m. The following documents were required to be furnished by an intending bidder as per Annexure P-4.

a) The applicant must be resident of India and one of the following documents (self attested) mentioned will be submitted as a proof of residence namely:-

(i) Passport (ii) Ration Card

(iii)Driving Licence (iv) Water /Electricity bill (latest)

(v) Voter Identity Card (vi) Telephone bill (BSNL L.L. Latest)

vii) Smart Card viii) Adhar Card

b) Self Attested Photocopy of the Ownership document, in case of firm a Partnership Deed and Registration Certificate under Companies Act alongwith memorandum of association etc. as the case may be.

c) In case of firm/company, an Attested photocopy of authority to negotiate and sign tender and licence deed on behalf of the firm/company.

d) The applicant/firm must have minimum turnover of Rs.25.00 lacs per annum of retail Chemist during last three years. In support (proof) of annual turnover the following documents should be enclosed with the tender form:

a. Copy of audited Balance Sheets(duly attested) of last three years.

b. Attested copies of VAT Returns submitted in last three years.

e) Self Attested photocopy of the valid licence for sale of drugs/medicines issued by appropriate Drug Controller under the Drug and Cosmetic Act 1940 for carrying out business of selling of medicines etc.

f) Affidavit to the effect that the firm/individual will submit non conviction certificate issued within 15 days after the allotment of shop. The Non-conviction certificate should be furnished within 15 days after allotment & should be after the date of publication of tender notice.

g) Attested photocopy of VAT Registration Number/TIN number.

h) PAN number and photocopy of PAN Card Number (self attested)

i) Biodata of the Pharmacist/Pharmacists to be deployed in the Chemist Shop along with attested copy of registration certificate with pharmacy council.

j) A passport size photographs duly attested by the Gazetted Officer should be pasted on the tender form at last page.

k) Affidavit to the effect that the firm/individual is not blacklisted by any Govt. Organization and that no criminal case or any economic offence is pending under any Court of Law/Registered with police (Anneuxre-I).

The petitioner has submitted self attested photocopy of the balance sheet and not balance sheet attested either from Notary Public, Gazetted Officer or by a Chartered Accountant.

The argument of the learned counsel for the petitioner is that list of the above documents does not specify that the audited balance sheet is not required to be self attested, therefore, the petitioner was misled when he submitted a self attested balance sheet. It is argued that purpose of the attestation is to ensure genuineness of the document which is ensured when the petitioner self attested the document. He relies upon a judgment passed by the Division Bench of this Court in ***M/s Goyal Industries, Uklana Road, Narwana Vs. Pungrain Food Civil Supplies and Consumer Affairs, Punjab 2013 AIR (Punjab) 58*** to contend that liberty should have been granted by the respondents to correct/remove the irregularity of attestation of the audited balance sheet.

We have heard learned counsel for the petitioner and find no merit in the writ petition.

List of the documents shows that wherever the respondents wanted self attested copy of the document it was specifically mentioned such as self attested copy of the VAT Returns, copy of valid licence for sale of drugs/medicines, VAT registration, PAN No. etc. The requirement of copy of the audited balance sheet is that it should be duly attested. The attestation is to be done by the person who is authorized to attest the document such as

Notary Public, Gazzetted Officer or may be Chartered Accountant. Attested copy of the audited balance sheet was not filed before closing time of the furnishing of the tenders. Once the petitioner has not filed attested audited copy of the balance sheet within the time prescribed, the petitioner cannot be treated a valid tenderer. The validity of the tender has been rightly rejected.

In ***M/s Goyal Industries's case (supra)*** the tenderer has furnished registration certificate but registration certificate has a cutting of word `one' by replacing with word `two'. In these circumstances, it is held that opportunity shall have been given to the tenderer to produce the requisite certificate whether this registration was valid for 2 years. In the present case, first condition of furnishing of audited balance sheet has not been complied with. The sanctity of the time and date will stand violated if an opportunity is given to the tenderer to complete formalities after the cut of date and time.

In view thereof, we do not find any merit in the present writ petition and the same is hereby dismissed.

(Hemant Gupta)
Judge

(Harinder Singh Sidhu)
Judge

28.5.2015
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