

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Civil Writ Petition No. 13363 of 2014 (O&M)
Date of Decision: 25.02.2015

M/s AA Bala Sar Associates

..Petitioner

versus

Union of India and others

..Respondents

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

Present : Mr. Rakesh Gupta, Advocate, for the petitioner.
Mr. O.S.Batalvi, Advocate, for Union of India.

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

Rule D.B.

2. The petitioner-firm has challenged the communications/orders dated 27.03.2014 and 29.05.2014 on the ground that the same virtually amounts to black-listing.

3. The petitioner-firm has been awarded a contract for supply of furniture in schools. By the communication/order dated 27.03.2014 the work progress of the contractors including the petitioner-firm was noted. In respect of the petitioner-firm, it is stated in Annexure P-1 that the work progress was slow and that the petitioner-firm was not capable of handling more work. In view of this, the petitioner firm was held ineligible by the second communication dated 29.05.2014 for issuance of any further work. In view of the communication dated 27.03.2014 the petitioner-firm had not been considered capable of handling more work load and as such further a tender had not been issued to the petitioner firm.

4. The effect of the orders is akin to black-listing, although the respondents have stated that it does not amount to black-listing. The respondents have fairly stated that moment the petitioner-firm completes the existing contracts, which have been awarded to it, it would be issued fresh works, if found eligible.

5. However, the issue as to whether the petitioner-firm has successfully completed the existing work or not and if not whether it was responsible for non-completion must be considered before debarring the petitioner firm from tendering for further contracts. We do not for the moment suggest that the observation by the respondents was incorrect. For instance, learned counsel appearing on behalf of respondent Nos. 2 to 5 invited our attention to two letters dated 26.02.2014 and 28.05.2014 calling upon the petitioner firm to complete the work and raising a grievance that it was not doing so as required. These are, however, matters to be considered before debarring the petitioner firm from tendering for further works.

6. In the circumstances, the ends of justice would be met by directing respondent Nos. 2 to 5 to take a fresh decision as to whether the petitioner firm ought to be prevented from tendering for further works after affording the petitioner firm an opportunity of being heard. The impugned communications dated 27.03.2014 and 29.05.2014 shall stand substituted by the fresh order that may be passed by the respondents. The respondents shall take a fresh decision within a period of four weeks from today.

7. It is not possible in this writ petition to direct the respondents to make payment of the works allegedly successfully completed by the petitioner firm. The petitioner firm is at liberty to adopt appropriate proceedings in this regard.

Petition is disposed of in the above terms.

(S.J.VAZIFDAR)
ACTING CHIEF JUSTICE

(AUGUSTINE GEORGE MASIH)
JUDGE

25.02.2015
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