

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

CWP No.14102 of 2015

Date of decision: 16.7.2015

M/s Global Cane Sugar Services Pvt. ltd.Petitioner

VERSUS

**The Haryana State Cooperative Supply & Marketing Federation
Ltd. and othersRespondents**

CORAM: HON'BLE MR. JUSTICE HEMANT GUPTA

HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Vinod S. Bhardwaj, Advocate for the petitioner.

HEMANT GUPTA, J.(Oral)

The challenge in the present writ petition is to condition 4.1 of the notice inviting tender (Annexure P-1) which was published on 06.07.2015. The condition reads as under:

“4.1 The party must have the experience of all jobs of season and off season overhauling, repair & maintenance, and operation in at least one Sugar Factory of not less than 2500 TCD capacity with exportable cogeneration power for one complete crushing season in the same unit satisfactory through outsourcing. The Party will also provide RT 8 C of such mill for one crushing season as proof of performance. The party will also provide the copy of the agreement made with the company.”

The grievance of the petitioner is that in the earlier notice inviting tender, the condition has been changed after the petitioner challenged the rejection of its offer. The earlier condition reads as under:-

“4.1 The party must have the experience of repair and maintenance and complete factory operation of one Sugar Factory in India of at

least 2500 TCD capacity with export of power cogeneration for one complete crushing season satisfactory. Party will provide RT 8 C of such mill performance for one crushing season as proof of performance.”

The grievance of the petitioner is that the petitioner satisfies all the conditions as mentioned in the earlier tender notice as well as in the present tender notice i.e. of at least experience of repair and maintenance of sugar mill of at least 2500 ‘TCD’ (Tons of Cane per Day) except the condition of experience of export of power cogeneration of the same unit, whereas such was not the condition in the earlier tender notice. The power cogeneration is explained as the use of the waste by-products in the process of crushing for sugarcane, for the purpose of power generation and also the export thereof to the power grid.

The argument of learned counsel for the petitioner is that the petitioner has experience of operation and maintenance of one sugar mill of not less than 2500 TCD and also of power cogeneration but not of the same unit but of other units, therefore, it possesses technical expertise and capacity to execute contract. The condition has been tailor made to exclude the petitioner from the tender process.

We find that the condition in the notice inviting tender cannot be said to be arbitrary, irrational or unjust as the contract is of maintenance of the sugar mill of the capacity of 2500 TCD and the respondents want exportable cogeneration of power. Since, the capacity of the power cogeneration is of the same unit as that of crushing unit, therefore, the condition contained in para 4.1 cannot be

said to be unjust. The requirement is of operation and maintenance of one sugar mill and also exportable cogeneration of power of the same unit.

Still further, this Court in exercise of the power of judicial review does not have the expertise to go into the minute details of condition of tender. It is for the agency who has invited tender to determine that who would be more suitable for carrying out the contract.

In view thereof, we do not find any merit in the present writ petition.

Dismissed.

(HEMANT GUPTA)
JUDGE

JULY 16, 2015
‘D. Gulati’

(LISA GILL)
JUDGE