

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CIVIL WRIT PETITION NO.17969 of 2015

DATE OF DECISION: NOVEMBER 02, 2015

M/s Biosis Water, Branch Office at 1-Housing Board
ColonyPetitioner

Versus

State of Punjab and othersRespondents

**CORAM:- HON'BLE MR.JUSTICE S.J.VAZIFDAR, ACTING CHIEF JUSTICE
HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA**

Present: Mr.MS Dhaliwal, Advocate for the petitioner.

Mr.Rajinder Goyal, Additional Advocate General,
Punjab.

Mr.JS Ahluwalia, Advocate for respondents No.2,4 & 5.

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TEJINDER SINGH DHINDSA, J.

In response to a tender notice dated 13.4.2015 issued by the 4th respondent i.e. Director, Shaheed Bhagat Singh State Technical Campus, Ferozepur for installation of a Sewerage Treatment Plant (STP), the petitioner-Company had submitted its bid.

2. Grievance raised in the present petition is that inspite of being an eligible tenderer and having submitted the lowest bid, the work order in question has not been issued in its favour. The petitioner-Company assails a subsequent decision taken by the 4th respondent on 16.6.2015 to have the STP installed through the

Department of Water Supply and Sanitation, State of Punjab instead.

3. In response to the petition, a detailed reply on behalf of respondent No.4 has been filed.

4. Broad facts as have been asserted in the petition are not denied. It has been submitted that respondent No.4 is an Educational Institute established by the State of Punjab and its affairs are administered by a Board of Governors. The Board of Governors, in turn, is assisted by a Building and Works Committee on matters related to construction of buildings and other civil works. It has been stated that the Punjab Pollution Control Board vide letter, dated 20.11.2013, directed the Institute to instal a Sewerage Treatment Plant in the Campus. Accordingly, agenda item regarding installation of STP was taken up in the 16th meeting of the Building and Works Committee on 14.3.2014 and it was decided to get the work executed through Public Works Department, State of Punjab (Public Health Branch), as per Government norms. The matter was then placed before the Board of Governors in its 17th meeting held on 24.4.2014 and the decision to instal STP through PWD (Public Health) was approved. The matter was thereafter taken up with the State Government and the Water Supply and Sanitation Department, State of Punjab submitted a rough cost estimate of ₹225 lacs on 14.10.2014 for installation of STP in the Campus. Matter was again presented in the 19th meeting of the Building and Works Committee held on 22.12.2014 vide agenda item No.19.7 for consideration and approval to have the STP installed from the Water Supply and

Sanitation Department with an estimated cost of ₹225 lacs and such agenda item was duly approved. The issue thereafter came to be considered in the 19th meeting of the Board of Governors held on 26.12.2014 and in such meeting the previous decision of the Building and Works Committee was reviewed and it was decided to have the STP installed through a private consultant instead of the Water Supply and Sanitation Department, State of Punjab.

5. It was in the light of the decision of the 19th meeting of the Board of Governors that the tender notice was published by respondent No.4 on 13.4.2015 inviting competitive bids for installation of STP. It has been admitted that three quotations were received from eligible tenderers and of which, the petitioner-Company had submitted the lowest bid of ₹91 lacs.

6. It has further been clarified in the reply that the respondent-Institute received a letter dated 27.4.2015 from respondent No.3 i.e. Director, Department of Technical Education and Industrial Training (Punjab) calling upon the Institute to proceed with the installation of STP as per decision of the 19th meeting of the Building and Works Committee taken under agenda item No.19.7 and as such, to get the STP installed from the Department of Water Supply and Sanitation, State of Punjab. Against such backdrop, the matter was put up in the 20th meeting of the Building and Works Committee vide agenda item No.20.6 held on 16.6.2015 and wherein a decision was taken that the work in question would now be executed through the Department of Water Supply and Sanitation, State of Punjab.

7. During the course of hearing on 28.9.2015, we had called upon the State of Punjab to clarify and to state on affidavit as to whether the Department of Water Supply and Sanitation intends inviting tenders for the purpose of installation of STP. An affidavit dated 20.10.2015 of the Executive Engineer, Water Supply and Sanitation, Division No.1, Ferozepur has been filed and placed on record and wherein it has been deposed that installation of a STP is a skilled job and to be done by only such agencies which have expertise in the field. It has been stated that for choosing the agency/contractor to execute the work in question, tenders shall now be invited through E-tendering process as per Government policy and after opening E-tenders, the same shall be evaluated at the Division level by the Executive Engineer concerned and subsequently shall be checked at the Circle level by an Officer of the rank of Superintending Engineer and thereafter, shall be reviewed by a Tender Review Committee consisting of three Chief Engineers of the Department at the Head Office level. The work thereafter would be allotted upon approval of the Tender Review Committee to the eligible and lowest tenderer.

8. In view of such categoric stand taken on behalf of the respondents, we are satisfied that the decision not to allot the work order in favour of the petitioner-Company has been taken for bonafide reasons and not to favour any particular agency/contractor. Respondent No.4-Institute is substantially funded by the State of Punjab and functions under the aegis and control of the Department of Technical Education and Industrial Training.

Suffice it to observe that it would be bound by the directions issued by the concerned State Department. After issue of notice inviting tenders dated 13.4.2015, in response to which the petitioner-Company had submitted its bid for the work in question, the matter was reviewed and a decision was taken to have the STP installed through the Water Supply and Sanitation Department, State of Punjab. Such decision was taken in compliance of a directive dated 27.4.2015 issued by the Director, Department of Technical Education and Industrial Training (Punjab). We would view the same as a policy decision and which would not call for any interference.

9. In any case, there was no concluded contract in favour of the petitioner-company in pursuance to the notice inviting tenders dated 13.4.2015. In the affidavit dated 20.10.2015 of the Executive Engineer, Water Supply and Sanitation, Division No.1, Ferozepur duly placed on record, it stands clarified that the work of installation of STP would now be executed by inviting tenders through the E-tendering system as per Government policy. As and when such process is initiated, it would always be open for the petitioner-Company to submit its bid on-line subject to fulfilment of terms and conditions including those of eligibility.

10. No warrant for interference is made out.

11. Petition dismissed.

(S. J. VAZIFDAR)
ACTING CHIEF JUSTICE

(TEJINDER SINGH DHINDSA)
JUDGE

NOVEMBER 02, 2015

SRM