

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP No.18634 of 2015 (O&M)

Date of decision:04.09.2015

The Ferozepur District Cooperative Labour & Construction Societies Union Ltd.
... *Petitioner*

v.

State of Punjab & another ... *Respondents*

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

HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA.

Present: Mr. B.S. Sidhu, Advocate for the petitioner.

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S.J. VAZIFDAR, ACTING CHIEF JUSTICE.

The petitioner has challenged an internal communication dated 24.03.2014 addressed by the Chief Engineer, Vigilance Irrigation Works, Punjab insofar as, it states that in future e-tenders should be invited for all works irrespective of the cost of works. It is, however, necessary to read the entire letter:

“During the course of considering the facts of the case pertaining to the allegations levelled by the complainant against Executive Engineer/Lehal Division I.B. Patiala on 20.03.2014 regarding tenders invited by him costing less than Rs.5.00 lacs, the worthy Principal Secretary, Irrigation discussed the issue in detail with the undersigned.

It was felt that initially, when the e-tendering system was implemented in the irrigation department w.e.f.01.04.2010, the cost of works for inviting 431-443/Website/CC dated 19.02.2010. Now, it has been observed that a number of complaints are received regarding the various irregularities being committed by Divisional Officers in the case of tenders for works costing less than Rs.5.00 lacs which are invited at divisional level without publishing any tenders notice in the press and without adopting the procedure of e-tendering as

per earlier orders in this regard.

In view of the above, to achieve the complete transparency, maximize the competition in tenders rates and to curb the various complaints being received in this regard in case of tenders costing less than Rs.5.00 lacs, the worthy Principal Secretary, Irrigation has ordered on 20.03.2014 on said case file to issue the necessary instructions to the effect that the e-tenders should be invited for all works irrespective of the cost of the works. These orders are in supersession of earlier orders at Serial No.1 of Chief Engineer/Planning Officer letter No.431-443/Website/CC dated 19.02.2010.

It may also be ensured that to minimize expenditure on press notice, the matter of e-tender notice to be published in various newspapers, should contain only notice no., type of works in brief, earnest money, various cut-off dates in respective of different events of the tendering process etc. and the rest of the information to be seen by visiting the website of the department which may be clearly mentioned in the notice.

I shall be thankful if the above orders of the government are brought to the notice of all concerned Superintending Engineers and Executive Engineers for its implementation with immediate effect please.”

2. The first contention is that the Chief Engineer, Vigilance does not have the authority to issue such instructions. This submission is founded on the erroneous basis that the Chief Engineer, Vigilance has taken the decision. He has in fact only communicated and circulated the decision which has been taken by the Government of Punjab itself. This is clear from a plain reading of the communication. The communication states that the Principal Secretary, Irrigation had issued the orders and instructions. The concluding paragraph states that the orders contained therein are of the government. The Chief Engineer, Vigilance had only brought the same to the notice of all the concerned Superintending Engineers and Executive

Engineers for implementation with immediate effect. The first contention is, therefore, rejected.

3. It is then submitted that the introduction of the e-tender system is arbitrary and irrational. It was contended that these are small contracts which have been given to people, who are illiterate. Firstly, the rational of e-tender system as stated in the letter cannot be questioned. It introduces transparency with which there can be no quarrel. It also has other benefits as stated therein. We are not inclined to accept the contention that the petitioner is unable to submit tenders in the new system. It is a registered society. On a query, it was admitted that the society maintains accounts and that the same are audited. We see no reason why such a society is unable to submit the e-tender. Even if it is unable to do so at present, it must make efforts to do so in future for the benefit of its members.

Even assuming that some other departments have not introduced the e-tenders system it would make no difference.

The petition is, therefore, dismissed.

(S.J. VAZIFDAR)
ACTING CHIEF JUSTICE

(TEJINDER SINGH DHINDSA)
JUDGE

04.09.2015

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