

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
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CWP No. 24436 of 2014

Date of Decision : January 09, 2015

The Ghuman Nagar Coop. L&C Society Ltd. and others

....PETITIONERS

Vs.

State of Punjab and others

....RESPONDENTS

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

Present : Mr. P.S.Sekhon, Advocate,
for the petitioners.

Mr. Vinod S. Bhardwaj, Additional Advocate General, Punjab.

Mr. G.S.Attariwala, Advocate,
for respondents No. 2 and 4.

S.J. VAZIFDAR, ACTING CHIEF JUSTICE (Oral)

1. The petition has been filed by three petitioners. Separate petitions ought to have been filed as the facts are different. We, however, overlook this.

2. The petitioners have challenged their having been disqualified in the tender process initiated by respondents No. 2 and 4. The tenders were invited for 42 different works. The petition is not pressed in so far as petitioner Nos. 2 and 3 are concerned. We are, therefore, now concerned with only petitioner No. 1. Petitioner No. 1

bid for works at Item Nos. 1, 6, 7, 11 and 17 of the notice inviting

tenders. The petitioner No. 1 was disqualified on the ground that it had not complied with Condition No. 27 of the Terms and Conditions for NIT stipulated in the Tender Notice dated 20.10.2014. Condition No. 27 reads as under:-

“27. Instructions regarding Co-operative Labour & Const. Societies should be strictly compliance according to the letter issued by the Engineer-in-Chief of Local Govt. Punjab Letter No. E.I.C./13/884-898 dated 14-08-2013.”

3. The letter dated 14.08.2013, which was strongly relied upon by respondents No. 2 and 4 to oppose the petition, reads as under:-

“ In regard to above mentioned subject, it is written that all the Municipal Corporations/Municipal Councils, Nagar Panchayat and Improvement Trusts while issuing tender forms to the Co-op L&C Societies for the development works it is made mandatory that the said Co-op L&C Society shall fulfill all the sub rules under the Co-operative L&C Rules and all the concerned informed in this regard and the persons who violated the same and employee will be responsible for the negligence.

Sd/-

Engineer-in-Chief
14.08.2013”

4. The letter dated 14.08.2013 does not carry the matter further. It only states that it is mandatory for societies to fulfill the

sub-rules under the Co-operative L&C Rules. Moreover, the question of eligibility must be considered in the light of the terms and conditions of the NIT. We repeatedly asked the learned counsel appearing on behalf of respondents No. 2 and 4 as to which of the instructions regarding Co-operative Labour and Construction Society had not been complied with by petitioner No. 1. There was no answer. It is not contended on behalf of these respondents that any particular instructions had not been complied with strictly or otherwise. On the record, as it stands, there is nothing to indicate that petitioner No. 1 was not qualified to bid for the tender.

5. We regret our inability to pass any order in favour of the petitioner for two reasons. Notice of motion was issued in this petition on 29.11.2014 returnable on 05.12.2014. On 05.12.2014, respondents No. 2 and 4 sought time. The matter was adjourned to 05.01.2015. In the meantime, the work orders were issued on 15.12.2014 by respondents No. 2 and 4 to other contractors/bidders. Firstly, the persons, in favour of whom the works have been awarded, have not been impleaded. The respondents not having made out a case ought not to prejudice them especially when they have already started the work which is for a short duration ranging from 3-4 months. Substantial parts of the works must have already been completed. Secondly, considering the nature of the work, it would not be in the public interest to stop the same at this stage.

6. Although these observations may be prima-facie and based on the record as it stands, petitioner No. 1 had made more than just a strong prima-facie case against respondent Nos. 2 and 4

for having rejected its tender. Unfortunately, in view of the above circumstances, the petitioner No. 1 is relegated to make its claim for compensation ad damages.

7. The petition is accordingly disposed of.

In the facts and circumstances of the case, respondent No. 4 is directed to pay petitioner No. 1 costs of ₹ 30,000/- within a period of eight weeks from today.

**(S.J. VAZIFDAR)
ACTING CHIEF JUSTICE**

**(AUGUSTINE GEORGE MASIH)
JUDGE**

January 09, 2015
pj