

IN THE PUNJAB & HARYANA HIGH COURT AT CHANDIGARH

Date of Decision: 20.04.2015

CWP No.25649 of 2014 (O&M)

Hardev Singh & Co.

...Petitioner

Versus

State of Punjab & others

...Respondents

Present: Mr. Sumeet Goel, Advocate, for the petitioner.

Ms. Manisha Gandhi, Addl. AG, Punjab, with
Mr. Dilsher Singh, AAG, Punjab, for respondent Nos.1 to 4.

Mr. S.S.Narula, Advocate, for respondent Nos.5 & 6.

**CORAM: HON'BLE MR. JUSTICE HEMANT GUPTA
HON'BLE MRS. JUSTICE LISA GILL**

HEMANT GUPTA, J. (ORAL)

Challenge in the present writ petition is to the proceedings of the meeting of Tender Review Committee dated 09.12.2014 (Annexure P-11), whereby the petitioner has been ousted from the tender process.

The petitioner, a sole proprietorship firm, submitted its bids in response to four separate notices inviting tenders 'for providing and installing continuous Sand Filter of Rural Water Supply Scheme' at four places i.e. Village Bharu, Block Kotbhai, District Sri Muktsar Sahib; Village Kuttian Wali, Block Lambi, District Sri Muktsar Sahib; Village Sarawan Bodla, Block Malout, District Sri Muktsar Sahib and Village Dane Wala, Block Malout, District Sri Muktsar Sahib before the last date of submission of bids i.e. 20.11.2014, which was extended to 25.11.2014.

The technical and financial bids of the petitioner were opened on 25.11.2014. As per the respondents, the financial bids were opened due

to wrong command given during loading of tenders, as single envelope instead of three envelope system even when the technical bid of the petitioner was not evaluated.

The petitioner challenges the proceedings of 46th Tender Review Committee meeting held on 09.12.2014, wherein in respect of four bids submitted by the petitioner, it was found to be not responsive bidder. Such minutes were sent by the Chief Engineer (Central) -cum- Chairman, Tender Review Committee to the Superintending Engineer, Water Supply & Sanitation Circle, Chandigarh/Faridkot/Amritsar & Hoshiarpur. The grievance of the petitioner is that the petitioner has submitted additional documents on 04.12.2014 pursuant to the communication dated 02.12.2014 (Annexure P-9), therefore, the technical bids of the petitioner could not have been rejected.

On the other hand, the stand of the official respondents is that one of the essential conditions of the tender was that bidder should possess authorization of principal manufacture in favour of bidder having experience in “providing continuous sand filter plant with activated carbon filter”, but the petitioner has attached the authorization letter of Akar Impex Pvt. Ltd., which supplies “pressure sand filter/activated carbon filter”, which is a completely different product made of out-dated technology. Thus, the petitioner has failed to fulfill the basic terms and conditions of the notice inviting tenders. Since the petitioner has not fulfilled the necessary conditions, the petitioner was not found to be technically fit.

It is also pointed out that in communication dated 04.12.2014 (Annexure P-10), the petitioner has categorically mentioned that there are no continuous sand filters and that the principal company of the petitioner has more than 20 years of experience for supply of all types of pressure filters as

per requirement in the tender document. On the basis of such communication, it is sought to be argued that as per the petitioner itself, the petitioner has experience only in installing 'pressure sand filter', whereas the work in question is for 'continuous sand filtration' which is a new technology. Therefore, as per the additional documents, the petitioner is ineligible for the tender, as the basic condition is not met by the petitioner.

Learned counsel for the petitioner has vehemently argued that the stand in the written statement is an afterthought just to support the rejection of the claim of the petitioner. In fact, the petitioner meets the basic and necessary eligibility conditions of the tender, therefore, the process of consideration is illegal and unwarranted.

Having heard learned counsel for the parties at length, we do not find any merit in the present writ petition. The essential condition in the notice inviting tender is 'providing & installation of continuous sand filter plant with activated carbon filter having capacity 50000 ltrs. per hour for safe drinking water supply scheme'. As per the petitioner, there are no continuous sand filter plants, but only pressure filters. Therefore, as per the petitioner itself, it does not satisfy the basic eligibility condition of continuous sand filters nor the petitioner claims to be possessed of one.

In view thereof, we do not find any merit in the present writ petition. The same is accordingly dismissed.

(HEMANT GUPTA)
JUDGE

20.04.2015
Vimal

(LISA GILL)
JUDGE