

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CWP No.2768 of 2015 (O&M)
Date of Decision: 10.12.2015

Kailash Bassi

--Petitioner

Versus

State of Punjab & others

--Respondents

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

Present:- Mr. Sushil Bhardwaj, Advocate for the petitioner.

Mr. Gurinder Pal Singh, Addl. A.G., Punjab.

Mr. M.C. Berry, Advocate for respondents no.3 & 5.

Mr. K.S. Dadwal, Advocate for respondent no.4.

S.J. VAZIFDAR, A.C.J. (Oral)

The petitioner has sought a Writ of Certiorari to quash the allotment of work to respondent no.4 pursuant to the tender process initiated by a notice inviting tenders dated 30.6.2014. The petitioner has also sought orders directing the official respondents to recover the amounts from respondent no.4 and to take disciplinary action against respondent no.5 alleging that he had changed the terms and conditions of the tender to suit respondent no.4. The petitioner has also sought an order for action on the basis of a report dated 12.11.2014 submitted by the Supervising Engineer, Improvement Trust, Jalandhar to respondent no.2, wherein illegalities and irregularities have been alleged in the allotment of work to respondent no.4.

2. The official respondents had initially invited tenders by a notice dated 4.3.2014. The relevant clause thereof reads as under:-

“18. For Item No.3, tenders of only those agencies will be considered which has executed at least two

works of similar nature amounting to Rs.50.00 lac or above in the past 3 years. Firm must be enlisted in PWS. Local Government Department on any other Government Department in the appropriate category.”

3. Admittedly, the petitioner's tender was the most competitive and he was declared L-1. Curiously, however, the official respondents invited not the petitioner but respondent no.4, who was declared L-2 for negotiations. The negotiations were held behind the back of the petitioner. The petitioner was never called for negotiations. No explanation whatsoever for this unusual conduct has been furnished. The tender process, however, was cancelled.

4. Fresh tenders were invited by a notice dated 30.6.2014, the relevant clause of which reads as under:-

“14. Tenders of only those agencies will be considered, which have executed at least one works of similar nature i.e. Building works with high roof of 80% of estimated cost and two works of 60% estimated cost in the past 3 years. Proof of same be uploaded along with Technical Bid.”

It is apparent therefore that the eligibility conditions were altered. In view of the new eligibility conditions the petitioner was not eligible. Respondent no.4, however, was eligible. He was in fact the only eligible tenderer and the work was allotted to him.

5. Prima Facie, the matter requires serious investigation on the question as to whether there were any malafides in both the tender processes to exclude the petitioner and to ensure that the work is allotted only to respondent no.4. The above facts require investigation.

6. The Under Secretary, Department of Local Government, Punjab is directed to hold an investigation and to submit a report with reasons after

hearing the petitioner and respondent no.4 and any other party concerned.

In the event of the findings being adverse to respondent no.4, the official respondents shall take suitable action to recover the amounts as may be determined from the parties concerned.

7. The writ petition is, accordingly, disposed of.

(S.J. Vazifdar)
Acting Chief Justice

(Tejinder Singh Dhindsa)
Judge

10.12.2015
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