

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP No.8652 of 2015

Date of decision:4.5.2015

M/s Neeraj Mohindra

....Petitioner

VERSUS

Chandigarh Administration and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE HEMANT GUPTA

HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. H.N.S. Gill, Advocate for the petitioner.

HEMANT GUPTA, J.(Oral)

The petitioner has invoked the writ jurisdiction of this Court for issuance of a writ of mandamus directing respondent No.4 to allot the renovation work of 80, Type III houses in Sector 24, Chandigarh to the petitioner being the lowest tenderer in e-tendering process.

Learned counsel for the petitioner admits that the respondent has since decided to scrap the tender process and invited fresh tenders. However, he states that decision to scrap the tender is illegal and arbitrary without deciding representation of the petitioner.

Learned counsel for the petitioner relies upon an order passed by Division Bench of this Court in CWP No.26382 of 2013 titled Rupinder Singh Saini v. State of Punjab and others, decided on 02.12.2013. It is contended that since the financial bids have been opened and the rates quoted by the petitioner are known, therefore, it will lead to unhealthy competition in the re-tender process.

We have heard learned counsel for the petitioner and find no merit in the present writ petition. As per the petitioner, the bid of the petitioner was for a sum of Rs.1,99,57,520/- whereas the comparative chart shows that the bid of the petitioner was taken as Rs.1,97,18,897.92p. Therefore, the percentage of the cost estimate was wrongly arrived at. The petitioner has submitted a representation to consider manually calculated rates offered by the petitioner and then to arrive at the quoted rates.

Since, such representation of the petitioner has not been considered but it has been decided to cancel the tender process inviting fresh bids, the petitioner has invoked the writ jurisdiction of this Court.

A Division Bench of this Court in Rupinder Singh Saini's case (supra) was considering the multiple round of litigation which a tenderer has to initiate. It was found that initially a writ is filed to find out the cause for rejection of the tender and after the reasons are communicated then the second round of litigation begins. In these circumstances, it was directed that the representation of the tenderers should be considered and the reasons be communicated to the tenderers.

In the present case, the petitioner knows very well that the process of tender has been scrapped and fresh bids invited. Therefore, once it is decided by the respondents not to proceed with the advertised tender process, the petitioner or any other tenderer cannot make any grievance that as to why the tenders are being re-invited. The Competent Authority is within its jurisdiction to decide

as to whether they would like to go in for fresh advertisement or to complete tender process already initiated keeping in view the mistake or mischief which is likely to be avoided.

Still further, we find that the argument that the financial bid of the petitioner has been known which will lead to unhealthy competition is again not meritorious. The mistake in the bids has come to notice only from the process of calculation of the financial bids. Therefore, such mistakes cannot be permitted to be continued. Any mistake which comes to the notice of the Department, it is for the Department to take a conscious decision as to whether the mistake should be allowed to be corrected or the fresh tenders be invited. In the present case, the Administration decided to go in for fresh tenders.

Therefore, we do not find that any right of the petitioner has been infringed when it is decided to invite fresh tenders.

Consequently, the present writ petition is dismissed.

(HEMANT GUPTA)
JUDGE

MAY 4, 2015
‘D. Gulati’

(LISA GILL)
JUDGE