

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP-13404-2016

Date of decision: 01.09.2016

Mukesh Devi

..... Petitioner

Versus

State of Haryana and others

..... Respondents

**CORAM: HON'BLE MR. JUSTICE AJAY KUMAR MITTAL
HON'BLE MR. JUSTICE RAMENDRA JAIN**

PRESENT: Mr. JS Cooner, Advocate for the petitioner.

RAMENDRA JAIN, J.

1. This is the third writ petition filed by the petitioner under Articles 226/227 of the Constitution of India, for issuance of a writ in the nature of certiorari for quashing of impugned notice dated 30.06.2016 (Annexure P-11) re-inviting the tenders of Toll Point No. 13 (TP-13) at Shamli-Panipat Road, near U.P. Border for 18 months being against the Haryana Government Gazette Notification dated 12.10.2011 (Annexure P-1). It was further prayed that directions be issued to the respondents to call for fresh tenders in accordance with aforesaid notification Annexure P-1 only up to 31.03.2017.

2. Initially, the respondent-State vide notice dated 12.05.2016 (Annexure P-2) invited tenders of Toll Point No. 13 (TP-13) at Shamli-Panipat Road near U.P. Border, for a period of 18 months in view of Haryana Government Gazette Notification dated 12.10.2011 (Annexure P-1). The petitioner challenged the said notice Annexure P-2 by way of CWP-11753-2016 (Annexure P-4), on the ground that the same was

contrary to the aforesaid notification Annexure P-1, which was disposed of by this Court vide order dated 02.06.2016 (Annexure P-5) considering the fact that the respondent-State had decided to invite the tenders for the aforesaid Toll Point afresh. Thereafter, the respondent-State issued another notice dated 02.06.2016 (Annexure P-7), re-inviting the tenders of Toll Point No. 13 (TP-13) in terms of aforesaid notification Annexure P-1, which too was challenged by the petitioner by filing CWP-12598-2016 (Annexure P-9) on the ground that the same being invited for 18 months, contrary to the notification Annexure P-1 prescribing the duration/last limit for charging the toll up to 31.03.2017. The said writ petition was dismissed as having become infructuous vide order dated 23.06.2016 (Annexure P-10) as there was no response to the tender floated.

3. This is for the third time that the respondent-State had again issued notice dated 30.06.2016 (Annexure P-11) re-inviting tenders for the aforesaid Toll Point No. 13 (TP-13) for a period of 18 months which has been challenged by the petitioner on the ground that the same is contrary to the notification Annexure P-1 as the same could not have been called beyond 31.03.2017.

4. Learned counsel for the petitioner submitted that the action of the respondent-State of re-inviting tenders for 18 months is illegal being contrary to the notification Annexure P-1, according to which tender for the aforesaid toll point could not have been called beyond 31.03.2017. He further submitted that earlier also the respondent-State had invited the tenders for 18 months which was cancelled upon filing a similar writ petition bearing CWP-11753-2016 and thus, repeating the same act is illegal, arbitrary and violative of the statement made on behalf of

respondent-State in the aforesaid writ petition.

5. After giving our thoughtful consideration to the submissions made by learned counsel for the petitioner, we find the present writ petition completely devoid of any merit, because the terms and conditions of the notice Annexure P-11 inviting tenders in question is to be read as a whole and not in isolation. Clause 12 of the said notice reads as under:-

12) “Notification of this toll point that is TP-13 is going to expire on 31.03.2017. The period of 18 months is subject to the extension of notification by the Govt. If Govt. decided not to extend the period beyond 31.03.2017 the toll plaza will be closed on 31.03.2017 and no compensation on this account will be given.”

6. From the above clause, it is clearly evident on the record that tenders for 18 months have been invited with a pre-condition that it would expire on 31.03.2017, in case, if the extension period is not granted by the Government beyond 31.03.2017. Meaning thereby, vide notice Annexure P-11, the tenders are being invited up to 31.03.2017, subject to extension of period beyond 31.03.2017 by the State Government. Hence, no prejudice is being caused to the petitioner. Consequently, the writ petition is dismissed.

**(RAMENDRA JAIN)
JUDGE**

September 01, 2016
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**(AJAY KUMAR MITTAL)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No