

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP No. 14577 of 2016

Date of Decision: 25.7.2016

Tapan Solar Energy Pvt. Ltd., Shahdara, Delhi

....Petitioner.

Versus

State of Haryana and others

...Respondents.

1. Whether the Reporters of the local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

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

PRESENT: Mr. Anil Kshetarpal, Senior Advocate with
Mr. Rohit Nagpal, Advocate for the petitioner.

AJAY KUMAR MITTAL, J.

1. The petitioner through the instant writ petition filed under Articles 226/227 of the Constitution of India, seeking quashing of the decision of the Tender Committee, if any, taken refusing to open the financial bid and rejecting its technical bid. Further, prayer has been made for quashing the decision of the Tender Committee pursuant to the tenders submitted for rate contract for supply, installation and commissioning of Rooftop Grid Connected Solar Power Plants in the State of Haryana.

2. The Ministry of New and Renewable Energy (MNRE) under the Central Government had issued operational guidelines dated 18.9.2015 (Annexure P-1) for selecting and maintaining a list of channel partners/ Government Agencies and new entrepreneurs under 'Grid Connected Rooftop Small Power Plants Programme'. As per the certificate dated 16.3.2015 (Annexure P-2) issued by the MRNE, the petitioner had been

given SMERA Solar Grading 'SP2C' ('A' category channel partner). The MRNE also issued a certificate dated 31.8.2015 (Annexure P-3) of empanelment as channel partner to the petitioner. Union of India had put up a provisional list of partners, new entrepreneurs empanelled by the Ministry on 31.8.2015 (Annexure P-4). However, in the said list, the petitioner had been wrongly shown with the rating 'SP3B'. Respondent No.2 issued a notice, Annexure P-5, inviting tenders for supply, installation and commissioning of Rooftop Grid Connected Solar Plants in the State of Haryana during next 12 months. The tenders were invited under two bid systems, i.e. technical bid and financial bid. In the event of technical bid having been found in the order, the financial bid submitted by the tenderers was to be considered. The petitioner submitted its tender form on 31.8.2015 (Annexure P-6) along with copies of the certificates (Annexures P-2 and P-3) in support of its claim that it was entitled to 70 points as it was 'A' category channel partner on MNRE list. As per the list, Annexure P-7, the petitioner had been shown with the rating 'A'. The petitioner received a letter dated 6.2.2016 (Annexure P-8) through an e-mail from respondent No.3 that it had been found ineligible having secured 60 marks and that the financial bids would be opened on 10.2.2016 at 12 noon and the petitioner could come to attending the meeting to clarify the issue raised by the Lower Technical Committee. The representative of the petitioner reached the conference room at Akshay Urja Bhawan, Sector 17, Panchkula and appeared before the officials of respondent No.2 and tried to submit the documents, but he was not entertained. The petitioner sent an e-mail dated 10.2.2016 (Annexure P-9) along with all the three certificates to respondent No.2. Further, affidavit dated 22.7.2016 (Annexure P-10) of the

representative of the petitioner deposing all was submitted in the office of respondent No.2. The petitioner sent an e-mail to the MNRE and on 16.2.2016 (Annexure P-11), the petitioner was informed through e-mail that it falls in category 'A' in the list of the channel partners with MNRE. However, the Standing Technical Committee after considering the case of the petitioner as eligible, had refused to open its financial bid on the ground that the clarification had been received late. Accordingly, the petitioner moved a representation dated 16.5.2016 (Annexure P-12) to the Chairman, High Powered Purchase Committee-cum-Finance Minister, Haryana, Chandigarh for opening its financial bid, but no response has been received till date. Hence, the present writ petition.

3. Learned counsel for the petitioner submitted that for the relief claimed in the writ petition, the petitioner has moved a representation dated 16.5.2016 (Annexure P-12) to the Chairman, High Powered Purchase Committee-cum-Finance Minister, Haryana, Chandigarh, but no action has so far been taken thereon.

4. After hearing learned counsel for the petitioner, perusing the present petition and without expressing any opinion on the merits of the case, we dispose of the present petition by directing respondent No.1 to take a decision on the representation 16.5.2016 (Annexure P-12), in accordance with law by passing a speaking order and after affording an opportunity of hearing to the petitioner within a week from the date of receipt of certified copy of the order.

(AJAY KUMAR MITTAL)
JUDGE

July 25, 2016

(RAMENDRA JAIN)
JUDGE