

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP No. 15314 of 2016

Date of Decision: 1.8.2016

M/s Andy Solar Private Limited, Panchkula

....Petitioner.

Versus

State of Haryana and another

...Respondents.

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

PRESENT: Mr. Surender Deswal, 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, seeks a direction to the respondents to consider the second lab test report submitted vide letter dated 16.2.2016 (Annexure P-11) from the list of the respondents' approved lab, i.e. Electronics Test and Development Centre (ETDC), Mohali. Further, a direction has been sought to respondent No.2 to start the bid process afresh.

2. The petitioner is engaged in the business of supply, installation and commissioning of Solar Street Lights, Solar Water Heater, Solar Panel, Grid Connected/Off Grid, Solar Power Plant, Solar Cookers, Solar Inverters, Indoor and Outdoor LED Lights, Solar Charge Controller, Solar Home Lighting System, Solar Lantern and other Solar Appliances. Shri Satwant Singh had been authorised to file the present petition vide resolution dated 21.7.2016 (Annexure P-1). Respondent No.2 issued a

installation and commissioning of solar chargers for existing inverters in the State of Haryana on annual rate contract under the Scheme on “Small Solar Power Packs” in various locations. Corrigendum No.1 dated 9.12.2015 (Annexure P-3) was issued by respondent No.2 for the technical parameters on Load Disconnect Voltage, Load re-connect voltage, Battery Low Voltage Cut-off and Self consumption at page 25 of the tender document are deleted. Thereafter, corrigendum No.2 dated 19.12.2015 (Annexure P-4) was issued for making modification at page 21 of the tender in term and condition No. 24(ii) and further modification in regard to page 26. Respondent No.2 further issued a corrigendum dated 21.12.2015 (Annexure P-5) extending the date and time for preparation and submission of online bids upto 1700 hours of 31.12.2015 and opening of Part-I of the e-tenders on 31.12.2015 at 12 Noon. The petitioner submitted its tender, Annexure P-6, duly eligible as they had also supplied the same items to respondent No.2 during last purchase in the financial year 2014-15 along with the acknowledgment receipt dated 29.12.2015 (Annexure P-7) in support of its claim that it had applied for testing of their items from approved test laboratory as per Detailed Notice Inviting Tender (DNIT) technical specifications. The petitioner received a letter, Annexure P-8, through an email from respondent No.2 to submit the test report of Charge Controller to its office on 10.2.2016 upto 9.30 AM as the meeting of Standing Technical Committee was scheduled to be held on 10.2.2016 at 10.30 AM to evaluate the bids technically and to open the financial bid. In pursuance thereto, the petitioner submitted its test report dated 8.2.2016 along with letter (Annexure P-9 Colly) of the National Institute of Solar Energy, an autonomous Institute of Ministry of New & Renewable Energy, Gurgaon.

The meeting of Standing Technical Committee was held on 10.2.2016 and evaluated the bids of all participants including the petitioner. An opportunity was given to all the companies/firms to submit their latest test report as per DNIT upto 16.2.2016. The petitioner sent their item for second test report of testing self consumption to the ETDC, Mohali, an approved laboratory as per DNIT. Thereafter, the petitioner submitted the test report of their item for self consumption issued by ETDC, Mohali along with earlier test report on 15.2.2016 at 7.40 PM to respondent No.2 through e-mail dated 15.2.2016 (Annexure P-10). Even the said report was submitted in hard copy along with a letter dated 16.2.2016 (Annexure P-2) to respondent No.2 on 17.2.2016 vide diary No. 5461. Respondent No.2 vide letter dated 18.2.2016 (Annexure P-12) informed the petitioner that the second meeting of Standing Technical Committee was scheduled to be held on 19.2.2016 at 3.00 PM to evaluate the bid technically and to open the financial bid. The said meeting was held in which it was found that the second lab test report of the petitioner was rejected on the ground that the same was from other lab. Accordingly, the petitioner moved a representation dated 16.5.2016 (Annexure P-13) to respondent No.1 and the Chairman, High Powered Purchase Committee and the Director Supply & Disposal, Haryana 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 sent a representation dated 16.5.2016 (Annexure P-13) to respondent No.1 and the Chairman, High Powered Purchase Committee and the Director Supply & Disposal, Haryana, 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.2 to take a decision on the representation dated 16.5.2016 (Annexure P-13), in accordance with law by passing a speaking order and after affording an opportunity of hearing to the petitioner within a period of seven days from the date of receipt of certified copy of the order.

(AJAY KUMAR MITTAL)
JUDGE

August 1, 2016
gbs

(RAMENDRA JAIN)
JUDGE

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No