

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP No. 15401 of 2016

Date of Decision: 2.8.2016

Shri Sukhdev Singh and others

....Petitioners.

Versus

Municipal Corporation, Ludhiana and others

...Respondents.

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

PRESENT: Ms. Madhu Dayal, Advocate for the petitioners.

AJAY KUMAR MITTAL, J.

1. In this petition filed under Articles 226/227 of the Constitution of India, the petitioners have prayed for issuance of a writ in the nature of mandamus directing respondents No.1 to 3 to reject the tender bid of respondent No.4 being ineligible and not to grant the work order to it.

2. The petitioners are 'A' and 'B' Class Contractors enlisted with the Municipal Corporation, Ludhiana. Their enlistment was renewed by respondent No.1 vide receipts (Annexure P-1 Colly). Respondent No.1 vide notice dated 21.6.2016 (Annexure P-2) invited short term e-tenders on percentage basis on two bid system from enlisted Cooperative Labour and Construction Societies, enlisted contractors of MC, Ludhiana and all contractors/agencies registered with other Government Departments for 12 numbers of work for annual maintenance of tube wells in Ludhiana. As per Annexure P-2, the last date of sale and submission of bidding document for

Labour and Construction Cooperative Societies upto 40 lacs was 6.7.2016. The technical bid was to be opened on 7.7.2016 and the financial bid on 11.7.2016. For the other contractors, the last date of submission of bidding document was 14.7.2016 and the opening of technical bid was 15.7.2016 whereas the opening of financial bid was 19.7.2016. Government of Punjab vide notification dated 2.10.2014 (Annexure P-3) granted certain concessions to Cooperative Societies. As per the notification, Annexure P-3, the skilled work upto the value of ₹ 40 lacs was to be given to the Labour and Construction Societies only in the first instance. If none of the societies was competent enough to undertake the work, then such works be got done by inviting open tenders from contractors and the other societies. The works of maintenance of tubewells of four zones of Municipal Corporation, Ludhiana have been further divided into sub zones. The estimated cost of each of 12 works was upto ₹ 40 lacs. The eligibility criteria as per the tender document (Annexure P-4) was experience in providing services of maintenance of tubewell/booster/other plants etc. Respondent No.4 is a Labour and Construction Cooperative Society is enlisted with the PWD, B&R, for Class III Building Work for carrying out work upto the value of ₹ 40 lacs as per application and enlistment certificate dated 11.2.2015 (Annexure P-5 Colly). Thus, respondent No.4 was eligible to carry out only the construction work but was not eligible to carry out skilled works of electrician and maintenance of tubewells etc. as it was not enlisted with Public Health Branch of PWD B&R. Even the antecedents of respondent No.4 were not clear. The registered address of respondent No.4 in the capacity certificate dated 20.4.2015, VAT and PAN certificates (Annexure P-7 Colly) is Galla Mandi, Ahmedgarh whereas in the enlistment certificate,

Annexure P-4, its registered address is House No.221, Gali No.15, Guru Angad Dev Nagar, Ludhiana. As per the information received by the petitioners under the Right to Information Act, 2005, respondent No.4 had got its enlistment certificate renewed despite the facts its earlier certificate dated 15.1.2014 (Annexure P-8) was valid till 14.1.2016. Respondent No.5 is a contractor and an influential person in Ludhiana. M/s A.M. Construction Company owned by respondent No.5 had been blacklisted/debarred by the Municipal Corporation, Jalandhar vide order dated 16.5.2015 (Annexure P-9). Therefore, respondent No.5 had become ineligible for the allotment of tender. Since respondent No.5 is not eligible for grant of tender work, respondent No.5 is managing and running respondent No.4 which is discernible from Annexure P-10, the record of Excise Department submitted by respondent No.5. The technical bid for the tender was opened by respondents No.1 to 3 on 7.7.2016. Instead of declaring respondent No.4 ineligible for the tender work and rejecting its bid, it has been declared as lowest bidder and respondents No.1 to 3 are in the process of issuing letter of intent to respondent No.4. Accordingly, petitioner No.1 made a representation dated 12.7.2016 followed by a reminder dated 13.7.2016 (Annexure P-11 Colly) to respondent No.1 regarding the ineligibility and fraud played by respondent No.4, but no response has been received till date. Further, the petitioners moved applications dated 19.7.2016 (Annexure P-12 Colly) under the Right to Information Act, 2005 seeking information from the official respondents regarding the rules/instructions under which respondent No.4 was eligible for tender work. Hence, the present writ petition.

3. Learned counsel for the petitioners submitted that for the relief

claimed in the writ petition, petitioner No.1 has moved a representation dated 12.7.2016 followed by a reminder dated 13.7.2016 (Annexure P-11 Colly) to respondent No.1, but no action has so far been taken thereon.

4. After hearing learned counsel for the petitioners, 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 dated 12.7.2016 followed by a reminder dated 13.7.2016 (Annexure P-11 Colly), in accordance with law by passing a speaking order and after affording an opportunity of hearing to the petitioners and respondent No.4 within a period of ten days from the date of receipt of certified copy of the order.

(AJAY KUMAR MITTAL)
JUDGE

August 2, 2016
gbs

(RAMENDRA JAIN)
JUDGE

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No