

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP No. 16734 of 2016

Date of Decision: 5.9.2016

M/s NSP & Co. (JV), Patran, Patiala

....Petitioner.

Versus

State of Punjab and others

...Respondents.

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

PRESENT: Mr. V.K. Mahajan, Advocate for the petitioner.

AJAY KUMAR MITTAL, J.

1. In this writ petition filed under Articles 226/227 of the Constitution of India, the petitioner has prayed for issuance of a writ in the nature of Mandamus directing the respondents to allot the contract being the highest bidder (H-1) as per management contract dated 14.1.2016 (Annexure P-2) or in the alternative release 120% of the total investment (including the amount of bank guarantees) deposited by the petitioner under Clause 16.1(a)(1) of the Management Contract, Annexure P-2, along with interest.

2. The respondents invited the tenders for the Privatization and Operation and Maintenance of Bus Terminal, Ludhiana for four streams of revenue, i.e., (i) collection of Adda fees (ii) collection of parking fees (iii) collection of advertisement charges and (iv) physical possession of shops/offices in the Bus Stand. In pursuance thereto, the petitioner applied and

being the highest bidder (H-1) was allotted the contract vide notice of award dated 8.1.2016 (Annexure P-1) and to take over the physical vacant possession. The management contract was signed on 14.1.2016 (Annexure P-2) by both the parties. Respondent No.2 vide letter dated 14.1.2016 (Annexure P-3) requested the petitioner to take over the physical vacant possession of the complete facilities, operation and maintenance of Bus Terminal, Ludhiana from M/s Welspun Enterprises Ltd. on the intervening night of 17/18.1.2016. The petitioner deposited the first quarterly installment of ₹ 1,12,80,588/- in the bank account of respondent No.2. Respondent No.3 vide letter dated 17.1.2016 (Annexure P-4) showed their inability to handover the physical vacant possession of shops/offices due to some civil litigation of some shops. On receipt of the letter, Annexure P-4, the petitioner made a representation dated 17.1.2016 (Annexure P-5) that they are ready to take complete physical possession of all the facilities but would not take over the partial possession of the Bus Terminal, Ludhiana. Respondent No.2 vide letter dated 1.2.2016 (Annexure P-6) informed the petitioner that they were ready to hand over three streams out of total four streams and the fourth stream would be handed over after getting it from the previous concessionaire M/s Welspun Enterprises Ltd. and directed the petitioner to take over the possession of three streams by 5.2.2016 failing which it would be presumed that the petitioner was not willing to take over the operation. Respondent No.2 vide letter dated 1.2.2016 directed M/s Welspun Enterprises Ltd. to get all the shops, offices, establishments, food courts etc. vacated from its unauthorized licensees/vendors and to handover the same. Thereafter, the petitioner was issued notice of termination dated 11.2.2016 (Annexure P-8). The petitioner submitted its reply dated

15.2.2016 (Annexure P-9) to the said notice, Annexure P-8. The petitioner furnished two fresh bank guarantees amounting to ₹ 1.20 crores and ₹ 30 lacs, respectively to respondent No.2 vide letter dated 19.2.2016 (Annexure P-10). The said guarantees were confirmed by the Bank vide letter dated 25.2.2016 (Annexure P-11). The petitioner also got registered FIR No. 113 dated 12.6.2016 (Annexure P-12) under Sections 420/467/468/471/34 of the Indian Penal Code, Police Station City Tarn Taran against Shri Jatin Kumar who has got the guarantee arranged to fulfil the contract. On 13.6.2016, the petitioner requested the respondents to handover the physical possession of all the four streams of revenue of operation and maintenance of Bus Terminal, but to no effect. Accordingly, the petitioner served a legal notice dated 29.6.2016 (Annexure P-13) upon the respondents for handing over the physical possession of all the streams of revenue of operation and maintenance of Bus Terminal or to refund the security amount equivalent to 120% of the amount deposited including the bank guarantees along with interest, 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 legal notice dated 29.6.2016 (Annexure P-13) to the respondents, 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 legal notice dated 29.6.2016 (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 one week from the date of receipt of certified copy of the order.

(AJAY KUMAR MITTAL)
JUDGE

September 5, 2016
gbs

(RAMENDRA JAIN)
JUDGE

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No