

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CWP No.17442 of 2016
Date of decision: 26.08.2016**

M/s Zimidara Transport company

.....Petitioner

Vs.

Food Corporation of India and others

.....Respondents

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

Present: Mr.Anurag Chopra, Advocate for the petitioner.

Ajay Kumar Mittal,J.

1. Through the instant writ petition under Articles 226/227 of the Constitution of India, the petitioner prays for issuance of a writ in the nature of mandamus for declaring the tender process carried out by respondent No.2 in pursuance to tender inquiry dated 26.7.2016, Annexure P.1 whereby the technical bid submitted by it dated 25.7.2016, Annexure P.2 for appointment of Transport Contractor (TC) at Sunam has been rejected vide impugned order dated 22.8.2016, Annexure P.8, as illegal and arbitrary.

Further prayer has been made for restraining respondent No.2 from allotting

the work for TC Sunam in pursuance to technical evaluation and opening of financial bids of the successful bidders during the pendency of the writ petition.

2. A few facts relevant for the decision of the controversy involved as narrated in the petition may be noticed. Respondent No.2 in pursuance to the Notice Inviting Tender (NIT) under the two bid system invited parties for appointment of TC at Centre Sunam for a period of two years and issued the tender inquiry. The petitioner duly submitted its tender submission undertaking along with the requisite forwarding letter as prescribed in the MTF/instructions issued by respondent No.1. Respondent Nos. 3 and 4 submitted their tender bids through their submission dated 25.7.2016. The petitioner raised objections in the tender submission documents submitted by respondent Nos. 3 and 4 and addressed a legal notice dated 4.6.2016 to respondent No.2 duly highlighting the omissions. It was stated that respondent No.4 did not fill the tender submission form accurately. Certain other discrepancies were pointed out by the petitioner in the tenders submitted by respondent Nos. 3 and 4. The petitioner again sent a legal notice dated 15.8.2016 stating therein that its technical bid may not be rejected due to any omission which was not material in nature as it had not written the name of Rail Head Sunam in Column I of Appendix I. Respondent No.2 did not give any response to the said notice. The petitioner filed CWP No.16833 of 2016 in this Court seeking a direction to respondent No.2 to consider its technical bid for TC Sunam. Further prayer was made for a direction to respondent No.2 to consider rejecting the bids of respondent Nos. 3 and 4. . The said writ petition was disposed of vide order dated 22.8.2016 directing respondent No.2 to take a decision on the legal notices dated 4.8.2016 and 15.8.2016 in accordance with law after affording

an opportunity of hearing to the petitioner. According to the petitioner, before the said order could be communicated to respondent No.2, at about 4 PM on the same day, the office of respondent No.2 passed the impugned order dated 22.8.2016 along with an email communication of even date certifying the fact that the technical bid of the petitioner had been rejected. According to the petitioner, the impugned order was passed by the respondents hurriedly and with malafide intention. The price bid of the petitioner was the most conducive in comparison to the price bid submitted by respondent Nos. 3 and 4. Hence the instant writ petition by the petitioner.

3. We have heard learned counsel for the petitioner.

4. The petitioner had earlier filed CWP No.16833 of 2016 in this Court with a prayer for directing respondent No.2 to consider its tender document/technical bid for Transport Contractor, Sunam pursuant to the tender enquiry dated 26.7.2016. Further prayer was made for directing respondent No.2 to consider rejecting the bid dated 25.7.2016 submitted by respondent Nos. 3 and 4. Direction was also sought to respondent No.2 to decide the legal notices dated 4.8.2016 and 15.8.2016 sent by the petitioner. The said writ petition was disposed of vide order dated 22.8.2016 with a direction to respondent No.2 to take a decision on the legal notices dated 4.8.016 and 15.8.2016 in accordance with law by passing a speaking order after affording an opportunity of hearing to the petitioner within a period of two weeks from the date of receipt of a certified copy of the order. The order dated 22.8.2016 was not brought to the notice of the respondent authorities by the petitioner. The information was put on the website as per Annexure P-8 by respondent No.2 on the same day in the evening. Now even without approaching the respondent authorities in terms of our order dated 22.8.2016, the petitioner has rushed to this Court again through the instant

writ petition. The present writ petition at this stage is pre-mature. As a result, we do not find any ground to interfere with the impugned action of respondent No.2 and consequently, the writ petition is hereby dismissed.

(Ajay Kumar Mittal)
Judge

August 26, 2016
‘gs’

(Ramendra Jain)
Judge

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No