

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP No. 18611 of 2016

Date of Decision: 8.9.2016

The New Smagh Co-op L&C Society Ltd., Faridkot

....Petitioner.

Versus

State of Punjab and others

...Respondents.

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

PRESENT: Mr. K.K. Goel, 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 certiorari for quashing the orders dated 1.9.2016 (Annexure P-11), dated 22.3.2016 (Annexure P-1) and dated 22.4.2016 (Annexure P-6) awarding the tender of labour cartage in favour of respondents No.8 and 9 against the provisions of policy dated 10.3.2016 (Annexure P-4) issued by respondent No.1 without re-inviting the tenders and blacklisting respondent No.9 as it had refused to execute the awarded/approved contract as per the policy. Further, a writ of mandamus has been sought directing respondents No.2 and 3 to re-invite the labour and cartage tenders for Faridkot Centre and other storage points as per the policy as respondent No.9 had refused to execute the awarded work.

2. Respondent No.2 vide advertisement dated 10.3.2016 (Annexure P-2) invited tenders for all the Districts of Punjab for loading and unloading of foodgrain of all storage centre for labour cartage for labour work of PEG godowns. The last date of submission of tenders was

14.3.2016 whereas the tenders were to be opened on 19.3.2016. The list (Annexure P-3) of storage centre mentioning capacity of each purchase agency was put on the notice board as well as on the website of the department. Respondent No.2 framed a policy dated 10.3.2016 (Annexure P-4) for labour cartage and labour for following the instructions for awarding contract or labour cartage/labour transportation for the year 2016-17. In pursuance to the publication, Annexure P-2, the petitioner submitted its tender on 18.3.2016 (Annexure P-5) along with other tenderers. Out of the total tenders received, four tenders were rejected. The financial bids of the tenderers were not opened on 19.3.2016 as stated in the tender notice. Respondent No.9 applied only for all the procurement agencies whereas the other tenders were only for the purchase agency of PUNSUP. The tender of labour cartage for storage centre, Faridkot and other storage centres was awarded in favour of respondent No.9 for one year commencing from 1.4.2016 to 31.3.2017 vide proceeding/order dated 22.3.2016 (Annexure P-1). After award of the contract, respondent No.9 refused to execute the cartage work. Thereafter, the contract was awarded to respondent No.8 vide proceeding dated 21.4.2016 (Annexure P-6) without re-inviting the tender. The tender of the petitioner had been rejected on flimsy ground and the tender had been awarded against the clauses of the labour cartage policy framed for the year 2016-17. Some other union in case of having no EPF number, tender shall be allotted. The tender has to be rejected only on this ground. The worker union was having EPF number dated 24.3.2006 (Annexure P-7) and PAN card dated 16.12.2002 (Annexure P-8). Accordingly, the petitioner moved a representation dated 12.6.2016 (Annexure P-9) to respondent No.3 for awarding the tender for the year

2016-17 to the petitioner, but to no effect. Earlier the petitioner filed CWP No. 15663 of 2016 and this Court vide order dated 10.8.2016 (Annexure P-10) disposed of the said writ petition with a direction to respondent No.3 to decide the representation dated 12.6.2016 filed by the petitioner within a period of one week. When the said representation was not decided by respondent No.3 within the prescribed time, the petitioner filed COCP No. 2105 of 2016 in which notice of motion was issued. In the meantime, respondent No.3 vide order dated 1.9.2016 (Annexure P-11) rejected the representation of the petitioner. 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 12.6.2016 (Annexure P-9) to respondent No.3, 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.3 to take a decision on the representation dated 12.6.2016 (Annexure P-9), in accordance with law by passing a speaking order and after affording an opportunity of hearing to the petitioner and respondents No. 8 and 9 within a period of seven days from the date of receipt of certified copy of the order.

(AJAY KUMAR MITTAL)
JUDGE

September 8, 2016
gbs

(RAMENDRA JAIN)
JUDGE

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No