

CWP No.21214 of 2016

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

CWP No.21214 of 2016
Date of decision: 07.10.2016

M/s Dashmesh Goods Carrier (Regd.)

..... Petitioner

Versus

Food Corporation of India (Punjab) and another

..... Respondents

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

Present: Mr. A.B.S. Sidhu, Advocate for the petitioner.

AJAY KUMAR MITTAL, J. (ORAL)

In this 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* for directing respondent No.1 to consider the representation/email dated 27.09.2016 (Annexure P-4) and accept the affidavit/declaration before allotment of contract, in respect of Employees Provident Fund, which could not be submitted/uploaded along with the tender documents due to some technical fault on 26.09.2016.

2. A few facts necessary for adjudication of the instant petition as narrated therein may be noticed. Respondent No.1 floated public tender for appointment of transport contractor at Raikot, Tehsil Malerkotla, District Sangrur for carrying out transport work from various godowns to rail head.

As per the instructions, petitioner got all the documents uploaded and

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submitted along with tender on 26.09.2016 i.e. the last day for submission of tender. After the petitioner came to know that at the time of uploading of Format B “Affidavit” to be submitted in respect of payment of EPF defaults by bidders who are not having any EPF proceedings pending against them at the time of submission of tenders”, the frontside of the affidavit was not uploaded and only backside of the affidavit was uploaded, the petitioner immediately submitted representation/email dated 27.09.2016 at 8.49 a.m. to respondent No.1 to the effect that affidavit regarding EPF (frontside) was not uploaded due to some technical reason and further submitted the affidavit and requested to take it on record and consider the same at the time of the technical evaluation of tender to be held on 27.09.2016. On 27.09.2016 when petitioner approached the office of respondent No.1, it was informed orally that his tender will not be entertained since the affidavit has not been submitted properly. Hence, present writ petition.

3. After hearing learned counsel for the petitioner, we do not find any merit in the writ petition.

4. The **Supreme Court in Jagdish Mandal v. State of Orissa and others 2007(14) SCC 517** had held that the contract is a commercial transaction and the Court's indulgence in such matter should be minimal. Principles of equity and natural justice stay at a distance. The power of judicial review will not be permitted to be invoked to protect private interest at the cost of public interest, or to decide contractual disputes. The Court should exercise judicial restraint unless illegality or arbitrariness on the part of the Government in these matters is apparent. No ground for interference

by this Court under Articles 226/227 of the Constitution of India is made

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out. Consequently, finding no merit in the writ petition, the same is hereby dismissed.

(AJAY KUMAR MITTAL)
JUDGE

October 07, 2016
R.S.

(RAMENDRA JAIN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No