

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

**CWP No.23072 of 2015  
Date of Decision : 25.02.2016.**

**Bhagwat Engineers & Contractors**

**.....Petitioner**

**Versus**

**State of Punjab and others**

**..... Respondents**

**CORAM: HON'BLE MR.JUSTICE S.J.VAZIFDAR, ACTING CHIEF JUSTICE  
HON'BLE MR.JUSTICE ARUN PALLI**

Present : Mr. Kanwaljit Singh, Sr. Advocate with  
Mr. S.S.Chatrath, Advocate for the petitioner.

Ms. Meenakshi Goyal, Asstt. Advocate General, Punjab.

Mr. Ashok Kumar Bazaz, Advocate  
for respondents No.2 and 3.

**S.J.VAZIFDAR, ACTING CHIEF JUSTICE (ORAL):**

Although, we are unable to grant any relief to the petitioners  
the petition has served a useful purpose for further tenders.

2. The respondents invited tenders for the installation of Rig Bore  
Tubewell. The opening part of the E-tender notice dated 10.07.2015 reads  
as under:-

“Superintending Engineer (O&M) invites bids in  
two stage system (Technical Bid and Financial Bid Separately)  
from enlisted/renewed contractors having valid  
enlistment/renewal in Punjab Government Departments/ Local

Government/ Municipal Corporation and Electrical Branch of Municipal Corporation Jalandhar, for the works detailed in the following table on behalf of its commissioner. The bidders may submit bids for any or all works”.

3. The words “for the works detailed in the following table on behalf of its commissioner” refer to the work for which the tender is invited and do not refer to what the enlistment is for. In other words these words refer to the description of the work for which bids were invited from the enlisted/renewed contractors. We are not therefore, concerned with the purpose or the category in which the bidder is enlisted with the authorities mentioned in the notice namely Punjab Government Departments/ Local Government/ Municipal Corporations and Electrical Branch of Municipal Corporation Jalandhar. The petitioners are registered with the Municipal Corporation Hoshiarpur and a certificate of enlistment dated 5.01.2015, was furnished by the petitioners to the respondents along with their bid. The certificate indicates that the petitioners are enlisted as Class-I contractors for building works. The petitioners' bid was therefore, valid and ought not to have been rejected.

4. The respondents' contention is that the respondents have however, rejected the tender for the reasons contained in a communication dated 7.9.2015, the relevant portion whereof reads as under:-

“a) The agency has attached the copy of the enlistment of building works with Municipal Corporation Hoshiarpur but as per the letter of the Local Govt and terms & conditions of the NIT for works pertaining to installation of tubewells of O & M

wing, enlistment of water supply & sewarge works with any department of Punjab Govt/Local Govt. was required.

As per the criteria laid down in the letter of the local govt; your agency does not qualify the eligibility criteria of the technical bid.” (*sic*)

5. The notice inviting tenders does not require the bidder to be enlisted for water supply and sewerage work with the authorities mentioned therein. The petitioners' bid therefore, could not have been rejected.

6. We let us assume that the words “for the works detailed in the following table” in the opening part of the tender quoted earlier refer to the nature of enlistment of the contractor with the authorities mentioned therein. The works detailed in the table pertain to installation of Rig Bore Tubewell. In that event, the words “for the works detailed in the following table” would refer to the work of installation of Rig Bore Tubewell and the enlistment then with the authorities must be specifically with respect to Rig Bore Tubewell. However, none of the other bidders whose bids were considered eligible were enlisted with the authorities concerned for Rig Bore Tubewell.

The enlistment for water works too is vague. Water works may or may not involve the work of installation of Rig Bore Tubewell just as building works may or may not include the work of Rig Bore Tubewell. Thus, even assuming that the intention of the respondents i.e. the parties inviting the tenders was to award the works to a contractor enlisted with the authorities concerned for the work in respect whereof the tenders were

invited, they must ensure that the terms and conditions are spelt out clearly and unequivocally, failing which there would be uncertainty in the minds of bidders.

7. The petitioners' contentions therefore, are well founded. They were eligible for the contract. However, the works have already been allotted and the parties to whom the works have been allotted have not been impleaded. It would therefore not be proper to grant the reliefs sought as it would affect the rights of third parties without hearing them. Moreover, they have already commenced the work. The respondents state that about 50% of the work has been completed.

8. In the event of the works not having been awarded to any parties in respect of any particular location/installation the respondents shall not do so without considering the petitioners' bids as well. This order will not restrain the petitioners from adopting any other proceedings for their bids having been wrongly rejected.

**(S.J.VAZIFDAR)**  
**ACTING CHIEF JUSTICE**

25.2.2016

*Manoj Bhutani*

**(ARUN PALLI)**  
**JUDGE**