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

116 **Civil Writ Petition No.22518 of 2016
Date of Decision: October 27, 2016**

Terrier Utility Services Pvt. Ltd. ....Petitioner

versus

The Punjab State Cooperative Supply and Marketing Federation Ltd. and others ...Respondents

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

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Present: Mr. Anand Chhibbar, Sr. Advocate with
Mt. Atul Kaushik, Advocate and
Mr. Vaibhav Sahni, Advocate for the petitioner.

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AJAY KUMAR MITTAL, J. (Oral)

1. In the present 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 order dated 10.10.2016 bearing Memo No.DCM(FG)/SPE/FO(PRES)/2016/1487 whereby the bids submitted by the petitioner have been wrongly ignored and the work has been allotted to respondent No.3 for Zones No.1 to 4 which is in violation of the Tender terms as well as without considering the representations made by the petitioner. Further, a writ of mandamus has been sought directing the respondents to

consider the offers made by the petitioner in Tender Notice dated 06.09.2016.

2. The petitioner is engaged in providing services to various establishments in the field of security, horticulture, hospitality and other allied services (technical as well as non-technical services) in the State of Punjab, Haryana and Union territory, Chandigarh. As per Tender Notice dated 02.09.2016, respondent No.2 invited tenders for providing security services to the Punjab State Cooperative Supply and Marketing Federation Ltd. (in short 'MARKFED) on contract basis for a period of three years at various places in the State of Punjab to which the technical as well as the financial bids were to be submitted by 21.09.2016. The terms and conditions of the alleged tender were advised to be available on the Website of respondent No.2. As per the tender notice, the date of opening of the technical bid was 21.09.2016 at 11:30 am and further the time and date of the opening of financial bid of the successful tenderers was 26.09.2016 at 11:30 am in the office of respondent No.2 onward. The petitioner submitted the technical as well as the financial bids as per the Terms and Conditions of the tender notice attached as Annexure P-1. As per Annexure P-2, the petitioner was given acknowledgment regarding submission of his tender. As per record, 12 Security Agencies participated in the tender process and after opening of the technical bids, the status of the parties

was indicated on the internet. After the opening of the technical bids, the financial bids were opened on 30.09.2016, with a comparative statement of all the tenderers showing the rates submitted by the petitioner as 1% for Zone No.1 and 0.01% for Zones No.2 and 3. On the other hand, the rates quoted by respondent No.3 for all the Zones has been shown as 0.00% (Annexure P-3 (colly.)) which was totally unlawful and non-competitive. During the follow-up of the petitioner with respondent No.2, it transpired that the rates quoted by the petitioner for Zones No.1 and 4 was 0.01% i.e. the lowest having the lawful consideration for performing the assignment by charging the minimum possible service/administrative charges. On the other hand, the rates quoted by respondent No.3 was 0.00%, which was not at all responsive or competitive, submitted without any lawful consideration. However, it was learnt that the rates quoted by respondent No.3 have been shown as 0.0001% and the work was being considered to be allotted to respondent No.3-M/s Innovision Ltd and the name of the petitioner-Company was likely to be ignored on account of non-availability of EMD of ₹1 lac in the record whereas the petitioner-Company has submitted the same through RTGS on 21.09.2016. However, the name of the petitioner-Company was not being considered for Zone No.4 on account of non-receipt of EMD. The clarificatory letter dated 27.09.2016 (Annexure P-4) was given to respondent

No.2. Thereafter, another letter was written to respondent No.2 on 29.09.2016, clarifying the position about remittance of EMD for Zone No.4 through RTGS instead of on-line, which was accepted for Zone No.1 (Annexure P-5), but to no effect. Aggrieved thereby, the petitioner sent another representation dated 12.10.2016 (Annexure P-6) to respondent No.2 for allotment of work to it being the lowest bidder for Zone No.4, but no response has been received till date. Moreover, while issuance of the allotment letter which is to take place w.e.f. 01.11.2016, another agency-M/s Prehari Protection Systems Pvt. Ltd. is also continuing with its earlier agreement, by providing security in one Zone upto 31.10.2016. The respondent-Department has allotted the tender to respondent No.3 vide office letter dated 10.10.2016 bearing Memo No.DCM(FG)/SPE/FO(PRES)/2016/1487 which is totally arbitrary and unconstitutional. Reference has been made to Clause 8 of the terms and conditions of the tender (Annexure P-1). Hence, the present writ petition.

3. Learned Senior counsel stated that for the relief claimed in the writ petition, the petitioner has sent a representation dated 12.10.2016 (Annexure P-6) to respondent No.2, but no action has so far been taken thereon.

4. After hearing learned Senior 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 representation dated 12.10.2016 (Annexure P-6), in accordance with law by passing a speaking order and after affording an opportunity of hearing to the petitioner within a period of ten days from the date of receipt of certified copy of the order.

(AJAY KUMAR MITTAL)
JUDGE

(RAMENDRA JAIN)
JUDGE

October 27, 2016
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Whether speaking/reasoned?	Yes/No
Whether reportable?	Yes/No