

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP-22853-2016

Date of decision: 04.11.2016

The Amloh Co-opearative Labour & Construction Society Ltd.

..... Petitioner

Versus

State of Punjab and others

..... Respondents

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

PRESENT: Mr. HS Bedi, Advocate for the petitioner.

AJAY KUMAR MITTAL, J. (ORAL)

1. The petitioner-Society by way of present writ petition under Articles 226/227 of the Constitution of India, seeks quashing of impugned order Annexure P-4 which was uploaded on the website on 25.10.2016 whereby the technical bid filed by the petitioner was illegally and arbitrarily rejected.

2. A few facts necessary for adjudication of the instant petition as narrated therein may be noticed. Respondent No. 5-Municipal Council, Mandi Gobindgarh in terms of the notification dated 02.10.2014 (Annexure P-1) issued by the Government of Punjab, had floated a notice inviting e-tender (civil works) Annexure P-2, in the last week of September, 2016 and as per the same the last date of submission of bidding documents

dated 12.10.2016 (Annexure P-3) whereby further five conditions were laid down. The petitioner being a labour and construction society had filed e-tender for serial Nos. 1, 7, 9, 10, 11, 14, 15, 16, 17 and 18 and got all the documents uploaded as per the conditions so mentioned in the notice Annexure P-2. The technical bid was to be opened on 14.10.2016 at 11.00 A.M. However, it was not opened on the said date. However, the technical bid of the petitioner was rejected which was uploaded on website 25.10.2016 (Annexure P-4). The documents, including the challan form (Annexure P-5) depict the EPF number and the verification report dated 30.04.2008 (Annexure P-6) of the office of Regional Provident Fund Commissioner, Chandigarh and, therefore, the rejection of the petitioner was not sustainable. The biodata and the detailed marksheet (Annexures P-7 and P-8, respectively) of Sh. Satvir Singh, shows that he had cleared the Civil Engineering Diploma and the same had been issued by the Punjab State Board of Technical Education and Industrial Training, Chandigarh. As such there was no discrepancy and the technical bid of the petitioner was wrongly rejected. The petitioner-Society had passed a resolution dated 14.04.2016 (Annexure P-9) requesting the Assistant Registrar, Co-operative Societies, Amloh for renewal of the capacity certificate with enhanced capacity from ₹ 1 crore to ₹ 1.5 crore but while issuing the capacity certificate dated 29.04.2016 (Annexure P-10) due to typographical mistake the date of resolution has been wrongly mentioned as 14.07.2016. This fact is amply clear from both the aforesaid documents and due to typographical error, the technical bid of the petitioner cannot be rejected. The other reason given by respondent No. 5 while rejecting the technical bid of the petitioner-Society was that the enlistment certificate

uploaded working area covered by this enlistment was within the jurisdiction of construction circle PWD (B&R), Sangrur. The aforesaid finding of respondent No. 5 is contrary to the notification Annexure P-1. Hence, the present writ petition.

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

4. The reasons for disqualifying the petitioner in the technical bid as mentioned in the impugned order Annexure P-4 reads thus:-

- “1. Copy of EPF not uploaded.
2. Technical Staff qualification and Biodata not matched.
3. Date of passing Mata for capacity certificate is 14/7/16 but Capacity Certificate Sanctioning date is 29/4/16.
4. Enlistment certificate uploaded working area covered by this enlistment in the jurisdiction of construction circle PWD B&R Sangrur.”

5. Learned counsel for petitioner is unable to dispel the reasons given in the capacity certificate dated 29.04.2016 (Annexure P-10). Reference has also been made to letter dated 24.10.2016 (Annexure P-12) which does not provide any help to the petitioner.

6. The Supreme Court in **Jagdish Mandal Vs. State of Orissa and others, 2007(14) SCC 517** had held that the contract is a commercial transaction. Evaluating tenders and awarding contracts are essentially commercial functions. Principles of equity and natural justice stay at a distance. If the decision relating to award of contract is bona fide and is in

public interest, courts will not in exercise of power of judicial review, interfere even if a procedural aberration or error in assessment or prejudice to a tenderer is made out. 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.

7. No ground for interference by this Court under Articles 226/227 of the Constitution of India is made out. Consequently, finding no merit in the writ petition, the same is hereby dismissed.

**(AJAY KUMAR MITTAL)
JUDGE**

November 04, 2016
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**(RAMENDRA JAIN)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No