

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP No. 23507 of 2016

Date of Decision: 11.11.2016

Ashwani Kumar

....Petitioner.

Versus

State of Punjab and others

...Respondents.

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

PRESENT: Mr. Manish Dadwal, 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 Clauses 4.2A(a) and 4.3A(a) wherein the stipulation regarding valid enlistment was limited to the Department of Panchayati Raj Public Works Circle, Punjab with regard to the contractors contained in the Notice Inviting Tender (Annexure P-2) and even in the same condition was contained in the subsequent Tender Notice dated 27.10.2016 (Annexure P-3). Further a writ of mandamus has been sought directing the respondents to open his tender submitted in pursuance to the Tender Notice (Annexure P-3) qua the work of construction of Hall near Model Town Club, Hoshiarpur as the price quoted by the petitioner is less than the price quoted by respondent No.3.

2. The petitioner is a Class-I contractor having certificate of

enlistment (Annexure P-1) issued by the Superintending Engineer, Construction Circle, PWD B&R Branch, Hoshiarpur. Respondent No.2 vide Tender Notice (Annexure P-2) invited bids for the construction of Hall Near Model Town Club, Hoshiarpur for an approximate value of ₹ 72.70 lacs. In response thereto, the petitioner applied for the bid along with required documents. However, the bid of the petitioner was not opened on the ground that he was not fulfilling the requirement of Clauses 4.2A(a) and 4.3(a) as he had not attached the contractor valid enlistment certificate from the Punjab Panchayati Raj Public Works Circle, Punjab. According to the petitioner, the same department had again issued the tenders along with the guidelines dated 21.10.2016 (Annexure P-3 Colly) for the other works with the same stipulation and he had applied for the same. However, the petitioner was not allowed to compete due to insertion of said Clauses. The tenders were opened on 27.10.2016 and the petitioner made a request to respondent No.2 for opening of his tender. When the petitioner was informed about the condition, he explained that since under the instruction of Government, they had been enlisted and on earlier occasions, there was no such stipulation and they were competing for such works. The petitioner had also shown his experience with regard to the earlier work as is depicted in the tender submission application dated 27.10.2016 (Annexure P-4). Accordingly, the petitioner moved a representation dated 2.11.2016 (Annexure P-5) to respondent No.2 for the allotment of work as mentioned in the Notice Inviting Tender dated 21.10.2016, but no response has been received till date. 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

2.11.2016 (Annexure P-5) to respondent No.2, 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.2 to take a decision on the representation dated 2.11.2016 (Annexure P-5), in accordance with law by passing a speaking order and after affording an opportunity of hearing to the petitioner and respondent No.3 within a period of ten days from the date of receipt of certified copy of the order.

(AJAY KUMAR MITTAL)
JUDGE

November 11, 2016
gbs

(RAMENDRA JAIN)
JUDGE

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No