

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP-23683-2016

Date of decision: 16.11.2016

M/s S.M. Enterprises, Kaithal

..... Petitioner

Versus

State of Haryana and others

..... Respondents

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

PRESENT: Mr. Sanjay Verma, Advocate for the petitioner.

RAMENDRA JAIN, J.

1. In this writ petition filed under Articles 226/227 of the Constitution of India, the petitioner-firm has, *inter alia*, prayed for issuance of a writ of Certiorari for quashing the impugned order dated 04.11.2016 (Annexure P-8) passed by respondent No. 4-Sub Divisional Officer (Civil), Karnal, whereby the technical bid of the petitioner for providing fire staff in Municipal Committee, Garaunda, Taraori, Nilokheri, Indri and Assandh, was rejected, despite the fact that eligibility criteria of submission of Form No. C Rule 9 of the Partnership Act, 1932 (for short 'the Act') was not applicable upon the petitioner, being a sole proprietorship firm.

2. A few facts necessary for adjudication of the instant petition as narrated therein may be noticed. In the year 2015, the petitioner-firm was allotted the work for providing fire staff in Municipal Committee,

Garaunda, Taraori, Nilokheri, Indri and Assandh falling in District Karnal, vide order dated 12.10.2015 (Annexure P-6) for the period from 01.10.2015 to 30.09.2016. After completion of the said period i.e. 01.10.2015 to 30.09.2016, the petitioner again applied for the said tender along with requisite documents. Consequently, respondent No. 4 opened the technical bid of the petitioner and rejected the same vide impugned order dated 04.11.2016 (Annexure P-8) on the ground of non-submission of Form No. C Rule 9.3 of the Act and allotted the tender to respondent No. 6-M/s High Tech Security Services. Hence, the present writ petition.

3. Learned counsel for the petitioner contended that earlier also the petitioner was allotted the similar work for supply of fire staff in above-mentioned five municipal committees for the period w.e.f. 01.10.2015 to 30.09.2016 falling under the jurisdiction of District Karnal, without raising any objection by respondent No. 4 with regard to non-submission of Form No. C Rule 9 of the Act. Now, in the fresh tender for providing fire staff for the period w.e.f. 01.10.2016 to 30.09.2017 its technical bid was rejected on account of non-submission of Form C Rule 9 of the Act. Hence, rejection of the technical bid of the petitioner on this ground is illegal and arbitrary.

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

5. 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.

6. In view of the above, 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.

7. Registry is directed to send a copy of this order to the respondents its concealment by the petitioner.

**(RAMENDRA JAIN)
JUDGE**

November 16, 2016
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**(AJAY KUMAR MITTAL)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No