

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

CWP No. 23857 of 2016

DATE OF DECISION : 18.11.2016

M/s Aman Security and Detectives (Regd.)

.... PETITIONER

Versus

State of Haryana and others

..... RESPONDENTS

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

HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr. Anil Shukla, Advocate,
for the petitioner.

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RAMENDRA JAIN, J.

1. The petitioner firm by way of instant writ petition under Articles 226/227 of the Constitution of India has sought issuance of a writ in the nature of certiorari for quashing condition regarding submission of attested copy of license issued by Labour Department, Haryana Government, only on Form No. F, under the Punjab Shops and Commercial Establishments Act, 1958. According to the petitioner, this has been imposed by the Haryana Tourism Corporation Ltd., Pinjore, in the Technical Bid Detail (Annexure P-3), while inviting technical bid/financial bid from the eligible service providers for providing manpower for sanitation/sweeping and for providing security guard (without gun) in accordance with the latest outsourcing policy for engaging/outsourcing of services/activities issued by the Government of Haryana vide letter dated 06.04.2015 published in the daily 'The Tribune' on 09.11.2015. The last

date for submission of bid has been fixed as 18.11.2016 till 10.00 A.M.

2. Learned counsel for the petitioner contended that the impugned condition of furnishing attested copy of license issued by the Labour Department, Haryana Government only on Form No. F, under the Punjab Shops and Commercial Establishments Act, 1958, is illegal, arbitrary, unjust and unconstitutional being denial of an opportunity to the similarly situated service providers, who have got the license in their favour from the Government of India or other departments. Therefore, by quashing the aforesaid condition, respondents be directed to allow the petitioner firm to submit its bid/tender.

3. After giving our thoughtful consideration to the arguments advanced by learned counsel for the petitioner, we do not find any merit in the instant petition, because the matter in dispute is contractual in nature. The Apex Court in **Jagdish Mandal v. State of Haryana and others, (2007) 14 SCC 517** has held that while invoking power of judicial review in matters as to tenders or award of contracts, certain special features should be borne in mind that evaluation of tenders and awarding of contracts are essentially commercial functions and principles of equity and natural justice stay at a distance in such matters. Power of judicial review will not be invoked to protect private interest at the cost of public interest, or to decide contractual disputes. Tenderer or contractor with a grievance can always seek damages in a civil court. The court should exercise judicial restraint unless illegality or arbitrariness on the part of the Government in these matters is apparent. Further, prescribing any condition required to be fulfilled by a prospective tenderer also falls within the domain of the

authority inviting tenders.

4. In view of the aforesaid settled proposition of law, 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 instant petition, the same is hereby dismissed.

5. Registry is directed to bring this order to the notice of the respondents, so as to avoid any concealment of this order by the petitioner.

(RAMENDRA JAIN)
JUDGE

November 18, 2016
ndj

(AJAY KUMAR MITTAL)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes