

Gurbax Singh
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**IN THE HIGH COURT OF PUNJAB AND HARYANA
CHANDIGARH**

**CWP No. 24551 of 2016
Date of decision: 29.11.2016**

Atul Kumar

.....Petitioner

Vs.

State of Haryana and others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE AJAY KUMAR MITTAL
HON'BLE MRS. JUSTICE SNEH PRASHAR**

Present: Mr. Piyush Kant Jain, Advocate with
Mr. S.K. Yadav, Advocate for the petitioner.

Ajay Kumar Mittal,J.

1. This order shall dispose of CWP No.24551 and 24602 of 2016 as according to the learned counsel for the petitioner, identical issue is involved in both the writ petitions. However, the facts are being extracted from CWP No.24551 of 2016.

2. In CWP No. 24551 of 2016, the petitioner prays for quashing the undated corrigendum issued by the Estate Officer-1 Haryana Urban Development Authority (HUDA), Gurgaon and the e-auction pursuant thereto, being beyond the terms and conditions of E-brochure, Annexure P.1, illegal and arbitrary. Further prayer has been made for a direction to the respondents to honour the concluded E-bid of the petitioner in respect of residential Plot No.751, Sector 5, Gurgaon measuring 6 marlas and allot him the said plot after receiving the balance due amount.

3. A few facts relevant for the decision of the controversy involved as narrated in CWP No. 24551 of 2016 may be noticed. The HUDA announced e-auction of residential plots in Sector 5, Gurgaon on the terms and conditions contained in the e-brochure, Annexure P.1. The petitioner intending to participate in e-auction for the plot in question got himself registered by making payment of prescribed fee of ₹ 1,20,528/- and also paid ₹ 1000/- as fee for participation in e-auction. The payment of auction fee of ₹ 1000/- was made through net banking. The petitioner being fully qualified participated in the e-auction which commenced on 9 AM and closed at 5 PM on 15.11.2016. He offered the highest bid of ₹ 1,02,26,400/- against the plot in question. The bid of the petitioner was highest till the closing time when the auction concluded on 15.11.2016. According to para 14 of the brochure, highest bidder was required to remit an amount equivalent to 10% of his quoted bid amount by 5 PM of the date succeeding to final bid closing day by way of generating general purpose challan in earnest money head and deposit that challan to HUDA designated Bank. The petitioner with a view to make the required payment approached the HUDA office at 9.30 AM on 16.11.2016 with General purpose challan for making payment of ₹ 8,18,112/-. The petitioner was shocked to know that the payment was not received. The petitioner sent an email at 11.34 hours on 16.11.2016 requesting the respondents to accept the balance payment. On 16.11.2016 at 17.55 hours, the petitioner received an email from the technical agency deployed by HUDA that bidding process for e-auction of residential plots of Estate Office I Gurgaon dated 15.11.2016 had been extended till 17.11.2016 5 PM extendable upto 6 PM due to technical reasons and various complaints from bidders. The email also stated that remaining 8% EMD amount had to be deposited upto 5 PM on 18.11.2016

as per brochure terms and conditions. The other terms and conditions were same. After having received the email on 16.11.2016, the petitioner visited the website of the respondents to ascertain the reasons for extension of e-auction which had already been concluded at 5 PM on 15.11.2016. The petitioner located an undated corrigendum issued under the signatures of Estate Officer which did not contain any valid reason for invalidating his concluded bids in respect of the plot in question. The corrigendum referred to technical reason which according to the petitioner is wrong because he after having offered his highest bid had sent an email on 15.11.2016 at 5.11 PM to e-auction agency to which the technical work had been outsourced by HUDA. Despite personal visit of the petitioner to the office of respondent Nos. 3 and 4 on 16.11.2016 at 9.30 AM, he was not confronted with any complaint from any bidder nor copy of any such complaint was provided to him. According to the petitioner, the concluded bidding period was extended by respondent Nos. 3 and 4 with an ulterior motive to help their own men. The petitioner alongwith similarly affected bidders submitted representation dated 16.11.2016, Annexure P.5 to the Administrator, HUDA, Sector 14, Gurgaon with a prayer that their bid should be accepted and they should be allowed to pay the required earnest money amount being the highest bidder. The petitioner having successfully bided for the said plot had not participated in the extended e-auction under the bonafide belief that being the highest bidder in a concluded e-auction, bid of any other person in respect of the said plot will not be allowed. However, it came to the notice of the petitioner that one Mr. Saurabh Gautam who had offered bid of ₹ 98,76,400/- on 15.11.2016 in respect of the said plot, had bid for ₹ 1,11,76,400/- on 17.11.2016 in the extended e-auction which made him the highest bidder of the said plot, causing prejudice to the right of the

petitioner. According to the petitioner, the respondents could not take away his vested right by permitting rebidding on the same plot. Hence the instant writ petition by the petitioner.

4. We have heard learned counsel for the petitioner.

5. It is the admitted position that the HUDA announced e-auction of residential plots in Sector 5, Gurgaon on the terms and conditions in E-brochure. The petitioner being qualified got himself registered by making payment of the prescribed fee. The petitioner participated in the e-auction and offered his bid against Plot No.751 Sector 5, Gurgaon till the closing time on 15.11.2016. On 16.11.2016, the petitioner approached the HUDA office at 9.30 AM for making the payment, which was not accepted. On the same day at 17.55 hours, the petitioner received an email stating that bidding process had been extended till 17.11.2016, 5 PM extendable upto 6 PM due to technical reason and various complaints from bidders. Immediately, thereafter, the petitioner visited the website of the respondents to ascertain the reasons for extension of e-auction. The petitioner came to know an undated corrigendum issued by respondent No.4 invalidating his concluded bid in respect of the plot in question. The petitioner had not participated in the extended e-auction inspite of having knowledge of the corrigendum. Consequently, one Mr. Saurabha Gautam who had offered bid of ₹ 98,76,400/- on 15.11.2016 in respect of the plot in question had bid for ₹ 1,11,76,400/- on 17.11.2016 in the extended e-auction which made him the highest bidder of the aforesaid plot. Thus, we do not find any error in the action taken by the respondents in accepting the bid of the highest bidder in the extended e-auction which had been in the knowledge of the petitioner well in time. The petitioner did not participate in the said e-auction. Moreover, it is well settled that it was within the domain of the authorities to

keep in view the overall interest of the public. Further, no concluded or legally enforceable contract had come into existence on 15.11.2016 in favour of the petitioner as the petitioner has not been able to show any material whereby his bid was accepted by the respondents on that date. Consequently, finding no merit in the petitions, the same are hereby dismissed.

(Ajay Kumar Mittal)
Judge

November 29, 2016
‘gs’

(Sneh Prashar)
Judge

Whether speaking/reasoned
Whether referred to reporter or not

Yes/No
Yes