

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP-25148-2016

Date of decision: 06.12.2016

M/s Syncotts International

..... Petitioner

Versus

The Vice-Chancellor, Punjab University, Chandigarh and others

..... Respondents

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

PRESENT: Mr. Ravi Bhushan, Advocate for the petitioner.

RAMENDRA JAIN, J.

1. In this writ petition filed under Articles 226/227 of the Constitution of India, the petitioner has, *inter alia*, prayed for issuance of a writ of Mandamus directing respondents No. 1 to 3 to qualify the petitioner for opening of its Financial bid in respect of E-Tender Notice (ENIT) dated 25.07.2016 to award licence for providing and laying synthetic Hockey Turf in Punjab University Campus, Sector-14, Chandigarh.

2. Put pithily, respondents No. 1 to 3 vide E-Notice Inviting Tender dated 25.07.2016 (Annexure P-1), invited tenders to award license for providing and laying of Synthetic hockey Turf in Punjab University Campus, Sector-14, Chandigarh at an estimated cost of ₹ 2,50,00,000/- (Rupees Two Crores and Fifty Lacs) upon depositing ₹ 5 lacs as earnest

money. The time limit for completion of work was fixed as 9 month and the

last date for submission of online bid was fixed as 17.08.2016. The bid was to be opened on 18.08.2016 at 11.00 A.M. The petitioner submitted its technical bid and financial bid as per terms and conditions of the tender documents by enclosing all the necessary documents. Respondents No. 4 and 5 have also submitted their technical and financial bids, which were scheduled to be opened on 18.08.2016. Vide letter dated 30.08.2016, issued by respondent No. 3, the petitioner was informed that the tender committee had rejected its technical bid and accepted the bids of respondents No. 4 and 5 primarily on two aspects, firstly, the petitioner did not supply its “valid enlistment” and secondly, there was discrepancy in the affidavit submitted by the petitioner, wherein it had concealed the penalty of ₹ 4000/- imposed upon it in the previous work under it. Being aggrieved, the petitioner submitted its objections against the order dated 30.08.2016 vide letter dated 02.09.2016 (Annexure P-4) addressed to respondent No. 3. The petitioner also served a legal notice dated 09.09.2016 (Annexure P-5) upon respondents No. 1 to 3 but no action has been taken thereon so far. Hence, the present writ petition.

3. Learned counsel for the petitioner contended that respondent No. 3 illegally and arbitrarily rejected the technical bid of the petitioner on extraneous considerations and to show undue favour to the private respondents at the cost of exclusion of the petitioner. It was further contended that the respondent No. 3 had disqualified the petitioner without following the due process and without affording an opportunity of hearing to the petitioner.

4. After perusing the contents of the petition and giving our thoughtful consideration to the submissions made by learned counsel for the

petitioner, we find that this writ petition is completely devoid of any merit.

5. The reasons for disqualifying the petitioner in the technical bid as mentioned in the impugned letter/order Annexure P-3 reads thus:-

- “1. The firm has not uploaded the copy of enlistment as per condition No. 7 (1).
2. The firm has given the affidavit that it has not been penalized for any work, however, as per the minutes uploaded w.r. to the 20th tender evaluation committee meeting for the non-national games projects held on 03.08.2015, 11 a.m. at National Games Secretariat Conference Hall, it has been observed that the firm has been fined for Rs. 4000/- on account of delay in carrying out the work of Synthetic Purpose Courts (18 Nos) Agreement No. 07/CENGs/2012-13 dated 09.10.2012 and as such affidavit submitted by the firm as per the requirement of the terms and conditions of the tender notice has been found to be incorrect.”

6. The perusal of the letter/order (Annexure P-3) shows that there is no illegality or infirmity in the same. The matter in dispute is contractual in nature. The power of judicial review cannot be invoked to decide the contractual disputes. Attempts by unsuccessful tenderers, like the petitioner, with imaginary grievances to persuade the Courts to interfere by exercising power of judicial review are not permitted. There appears to be no mala fide on the part of respondents No. 1 to 3 in accepting the bids of respondents No. 4 and 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.

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.

8. Registry is directed to bring this order to the notice of the respondents.

**(RAMENDRA JAIN)
JUDGE**

December 06, 2016
rishu

**(AJAY KUMAR MITTAL)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No