

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

CWP-2774-2016

Date of decision:- 11.02.2016

M/s Dashmesh Goods Carrier (Regd.)

...Petitioner

Versus

Food Corporation of India and others

...Respondents

CORAM: HON'BLE MR. JUSTICE S.J. VAZIFDAR, ACTING CHIEF JUSTICE
HON'BLE MR. JUSTICE ARUN PALLI

Present: Mr. A.B.S. Sidhu, Advocate,
for the petitioner.

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S.J. VAZIFDAR, A.C.J. (ORAL)

The petitioner has challenged the following clause in the
notice inviting tenders:-

“Important Note:

*It is to be noted that only the experience of
the contracts which have been successfully
concluded/completed before the date of
opening of Tender Enquiry(s) will only be
considered. The bids submitted on the
basis of experience of the contract(s)
which have not yet been concluded will be
summarily rejected.”*

2. The notice inviting tenders stipulates the eligibility of the
prospective bidders in various respects. For instance, clause 11 reads as
under:-

*“11. The experience certificate should be
signed by the authorized officer indicating
the name and designation of the officer
signing the experience certificate.*

It should be further noted that the bidder should have executed in any one (single financial year) of the immediate preceding five years the work of value:

a) At least 25% of the estimated value of the contract to be awarded in one single contract:

OR

b) 50% of the estimated value of the contract to be awarded in different contracts.

Note: The year for the purpose of experience will be taken as Financial Year (1st April to 31st March) excluding the financial year in which tender enquiry is floated. Thus the experience certificate should mention the experience in Financial Year format.”

3. The requirement that the experience of the contractor only in respect of contracts which have been successfully concluded/completed will be considered is not arbitrary or absurd. The respondents obviously want to be satisfied about the experience and expertise of the proposed bidder. The parameters to enable them to determine the same must be left to the party inviting tenders. Absent any malafides or absurd requirement, it is for the party inviting tenders to stipulate the conditions of eligibility.

4. In these circumstances, the petition is dismissed.

**(S.J. VAZIFDAR)
ACTING CHIEF JUSTICE**

**(ARUN PALLI)
JUDGE**

11.02.2016

Amodh