

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

CWP No. 3707 of 2016

DATE OF DECISION : 12.07.2016

The Jhumba Co-operative Labour & Construction Society Limited, Village
Jhumba, Tehsil and District Bathinda

.... PETITIONER

Versus

State of Punjab and others

..... RESPONDENTS

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

HON'BLE MR. JUSTICE RAMENDRA JAIN

1. *Whether Reporters of the local papers may be allowed to see the judgment ?*
2. *To be referred to the Reporters or not ?*
3. *Whether the judgment should be reported in the digest ?*

Present: Mr. R.K. Girdhar, Advocate,
for the petitioner.

Ms. Minakshi Goyal, AAG, Punjab,
for respondents No.1 and 2.

Mr. Sanjeev Soni, Advocate,
for respondents No.3 and 4.

Mr. K.S. Boparai, Advocate,
for respondent No.5.

Mr. D.S. Sobti, Advocate,
for respondent No.6.

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RAMENDRA JAIN , J.

1. The petitioner a Co-operative Labour and Construction Society,
has filed this petition under Articles 226/227 of the Constitution of India,
seeking a writ in the nature of certiorari to quash the Tender Notice dated

01.02.2016 (Annexure P-3) issued by the Municipal Corporation, Bathinda and its Executive Engineer (respondents No.3 and 4 herein). Further prayer has been made to quash the eligibility conditions laid down in the impugned tender notice making the petitioner society and other similarly situated societies ineligible, in terms of clause I of the Notification dated 02.10.2014 (Annexure P-4) issued by the State of Punjab, whereby all the societies, like the petitioner society, have been granted the concessions/right to execute all the unskilled works upto any limit and skilled works upto ₹ 40 lacs.

2. Vide impugned tender notice dated 01.02.2016 (Annexure P-3), respondents No.3 and 4 invited tenders from eligible bidders for the project works of various streets/wards, by clubbing various works. The grouse of the petitioner society is that if the works are not clubbed, it would get the preferential rights in respect of all the unskilled works upto any amount and all the skilled works upto ₹ 40 lacs. Learned counsel for the petitioner contends that separate tenders should have been invited in respect of each work, so that value of each tender is less than ₹ 40 lacs. On the other hand, the prayer of the petitioner has been opposed by learned counsel for the respondents.

3. Similar issue came up for consideration before a Division Bench of this Court in CWP No. 5265 of 2016 (Rajowal Cooperative Labour & Construction Society Ltd. and others Versus Municipal Corporation, Ludhiana and others), decided on 30.05.2016, wherein it was held that it is for the party inviting tenders to stipulate the terms and conditions of the tender and the notification dated 02.10.2014 does not prohibit any party from inviting tenders of the value of more than ₹ 40 lacs or from clubbing the works. Even otherwise, in the reply dated 16.02.2016

(Annexure P-6), the respondent – Municipal Corporation, Bathinda, while justifying the clubbing of various works, has submitted that most of the works under the project are bituminous works, which are allotted only to the persons who are having Hot Mix Plant. It has been further stated that so far as the works of interlocking tiles/pavers are concerned, those are mostly brought item works, due to which the Societies are not competent to execute the same. It has also been mentioned that the Societies do not have the competent technical staff and sources to execute these works.

4. Thus, in view of the above, the impugned tender notice dated 01.02.2016 (Annexure P-3) is held to have been legally and validly issued by respondents No.3 and 4. We do not find any arbitrariness in the eligibility conditions laid down in the impugned tender notice making the petitioner society and other similarly situated societies ineligible, in terms of clause I of the Notification dated 02.10.2014 (Annexure P-4) issued by the State of Punjab.

5. The petition is, accordingly, dismissed.

(RAMENDRA JAIN)
JUDGE

July 12, 2016
ndj

(AJAY KUMAR MITTAL)
JUDGE