

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Civil Writ Petition No.4711 of 2016 (O&M)

DATE OF DECISION: 11.03.2016

Prem Paul Bathla and another

....Petitioners

versus

State of Punjab and others

.....Respondents

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

HON'BLE MR. JUSTICE ARUN PALLI

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

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S.J. VAZIFDAR, ACTING CHIEF JUSTICE: (Oral)

The petitioners have challenged the award of work in favour of respondent No.6, on the ground that neither does respondent No.6 own a Hot Mix Plant within a shortest road distance of 45 Kms nor have they given an undertaking that they would procure the mix material for the work from a Hot Mix Plant falling within 45 Kms of the site of the work.

2. The petitioners admit that such a requirement was not stipulated in the notice inviting tenders. The petitioners, however, contend that the notice inviting tenders ought to have such a condition as in several other contracts entered into by the instrumentalities of the State such a condition is stipulated.

3. It is for the parties inviting tenders to decide upon the terms and conditions. It was for the official respondents, therefore, to decide as to whether such a requirement ought to be included or not. It is not possible to state that the absence of such a requirement was absurd or arbitrary.

4. The bid submitted by respondent No.6 cannot, therefore, be held to be non-responsive on account of their not having a Hot Mix Plant within the said distance.

5. It is also pertinent to note that the petitioners participated for the tender process without challenging the terms and conditions thereof. Having failed to submit the most competitive bid, they cannot now challenge the terms and conditions, especially when the same are not *ex facie* absurd or arbitrary.

6. The reliance upon the official respondents' correspondence, calling upon respondent No.6 to specify as to how they would meet the requirements necessary for executing the contract, is not well founded. That is a matter between the official respondents and respondent No.6.

7. The petition is, therefore, dismissed.

(S.J. VAZIFDAR)
ACTING CHIEF JUSTICE

11.03.2016
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(ARUN PALLI)
JUDGE